atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above, minimum gas concentrations 25 g/m³ at $\frac{1}{2}$ hour, 18 g/m³ at 2 or $\frac{2}{2}$ hours, 17 g/m³ at 3 hours. Fumigate for a minimum of 2 hours. Then, aerate fruit at least 2 hours before refrigeration (but begin refrigeration no more than 24 hours after fumigation is completed). Refrigerate based upon fumigation exposure time listed in the table below:

Fumigation expo-	Refrigeration		
sure time	Days	Temperature	
2 hours	4	0.55-2.7 °C. (33-37 °F.)	
	11		
21/2 hours	4		
	6	5.0-8.33 °C. (41-47 °F.)	
	10	8.88-13.33 °C. (48-56 °F.)	
3 hours	3	6.11-8.33 °C. (43-47 °F.)	
	6	9.88-13.33 °C. (48-56 °F.)	
2 hours	4 11 4 6 10 3	0.55-2.7 °C. (33-37 °F.) 3.33-8.3 °C. (38-47 °F.) 1.11-4.44 °C. (34-40 °F.) 5.0-8.33 °C. (41-47 °F.) 8.88-13.33 °C. (48-56 °F.) 6.11-8.33 °C. (43-47 °F.)	

(ii) Refrigeration plus fumigation. Refrigerate for 21 days at 0.55 °C. (33 °F.) or below, then fumigate at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with—

(A) 48 g/m³ (3 lb/1000 ft³) methyl bromide for 2 hours at 4.5 °C. (40–59 °F.), minimum gas concentration 44 g/m³ at ½ hour, 36 g/m³ at 2 hours; or

(B) 40 g/m 3 (2½ lb/1000 ft 3) methyl bromide for 2 hours at 15.5–20.5 °C. (60–69 °F.), minimum gas concentration 36 g/m 3 at ½ hour, 28 g/m 3 at 2 hours; or

m³ at ½ hour, 28 g/m³ at 2 hours; or (C) 32 g/m³ (2 lb/1000 ft³) methyl bromide for 2 hours at 21–26 °C. (70–79 °F.), minimum gas concentration 30 g/m³ at ½ hour, 25 g/m³ at 2 hours.

(3) *Tomato—(i) Fumigation.* Fumigate with methyl bromide at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with 32g/m³ (2 lb/1000 ft³) for 3½ hours at 21 °C. (70 °F.) or above, minimum gas concentration 26 g/m³ at ½ hour, 14 g/m³ at 4 hours.

(ii) Vapor heat. Heat by saturated water vapor at 44.4 °C. (112 °F.) until approximate center of tomato reaches 44.4 °C. (112 °F.). Maintain at 44.4 °C. (112 °F.) for 8¾ hours, then immediately cool.

(b) *Premises.* A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with malathion bait spray. These treat-

ments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Oriental Fruit Fly. Determination of the time period must be based on the day degrees model for Oriental fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 ounces of technical grade malathion and 9.6 ounces of protein hydrolysate per acre.

(c) Soil. Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in §301.93-2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are also acceptable.

[58 FR 8521, Feb. 16, 1993; 58 FR 29028, May 18, 1993]

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

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- 318.58-1 Definitions.
- 318.58-2 Regulated articles.
- 318.58-3 Conditions of movement.
- 318.58-4 Issuance of certificates or limited permits.
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Subpart—Sand, Soil, or Earth, with Plants From Territories and Districts

318.60 Notice of quarantine.

Subpart—Guam

QUARANTINE

318.82 Notice of quarantine.

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- 318.82-1 Definitions.
- 318.82-2 Movement of regulated articles.
- 318.82-3 Costs.

AUTHORITY: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 24 FR 10777, Dec. 29, 1959, unless otherwise noted.

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

§318.13 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine Hawaii to prevent the spread of dangerous plant diseases and insect infestations, including the Mediterranean fruit fly (Ceratitis capitata (Wied.)), the melon fly (Dacus cucurbitae Coq.), the oriental fruit fly (Dacus dorsalis Hendl.), green coffee scale (Coccus viridis (Green)), the bean pod borer (Maruca testulalis (Geyer)), the bean butterfly (Lampides boeticus (L.)), the Asiatic rice borer (Chilo suppressalis), the weevil (Sternochetus mangiferae (F.)), the Chinese rose beetle (Adoretus sinicus Burm.), and a cacborer (Cactoblastis cactorum (Berg.)), which are new to or not widely prevalent or distributed within and throughout the United States, and Hawaii is therefore quarantined.

(b) No fruits or vegetables, in the raw or unprocessed state; cut flowers; rice straw; mango seeds; or cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: Provided, That whenever the Administrator of the Animal and Plant Health Inspection Service shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions specifying the manner in which the restrictions shall be made less stringent, whereupon such modi-

fication shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations: And provided. further, That no restrictions are placed hereby on the movement of cactus plants from Hawaii to St. Croix, Virgin Islands of the United States, or on the movement of coconuts from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States.

(c) This subpart leaves in full force and effect §318.30 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.). It also leaves in full force and effect §318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(d) Regulations governing the movement of live plant pests designated in this section are contained in part 330 of this chapter.

[28 FR 13280, Dec. 7, 1963, as amended at 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971; 55 FR 38979, Sept. 24, 1990]

§318.13a Administrative instructions providing exemptions from specified requirements.

- (a) The following fruits, vegetables, and other products may be moved from Hawaii into or through Guam without certification or other restriction under this subpart:
 - (1) [Reserved]
- (2) Cut flowers, as defined in §318.13-
- (3) All fruits and vegetables designated in $\S 318.13-2(b)$.
- (4) Beets, rutabagas, and turnips; when without tops.

§ 318.13-1

(b) [Reserved]

[33 FR 14621, Oct. 1, 1968, as amended at 54 FR 3578, Jan. 25, 1989; 55 FR 38979, Sept. 24, 1990]

RULES AND REGULATIONS

§318.13-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the Animal and Plant Health Inspection Service to whom authority has been or may be delegated to act in the Administrator's stead.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Cactus plants. Any of various fleshystemmed plants of the botanical family Cactaceae.

Certificate. A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

Commercial shipment. Shipment containing fruits and vegetables that an inspector identifies as having been produced for sale or distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower and packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Compliance agreement. Any agreement to comply with stipulated conditions as prescribed under §318.13-3(b), §318.13-4(b), or §318.13-4f of this subpart, executed by any person to facilitate the interstate movement of regulated articles under this subpart.

Continental United States. The 48 contiguous States, Alaska, and the District of Columbia.

Cut flowers. Any cut blooms, fresh foliage customarily used in the florist trade, and dried decorative plant material.

Disinfection (disinfect and disinfected). The application to parts or all of a ship, vessel, other surface craft, or aircraft of a treatment that may be designated by the inspector as effective against such plant pests as may be present. ("Disinfect" and "disinfected" shall be construed accordingly.)

Fruits and vegetables. The more or less succulent portions of food plants, and parts thereof, in raw or unprocessed state, such as bananas, pineapples, potatoes, ginger roots, tomatoes, peppers, mellons, citrus, mangoes, etc.

Inspector. An employee of Plant Protection and Quarantine, or a State plant regulatory official designated by the Administrator to inspect and certify to shippers and other interested parties, as to the condition of the products inspected. To be eligible for designation, a State plant regulatory official must have a bachelor's degree in the biological sciences, a minimum of 2 years' experience in State plant regulatory activities, and a minimum of 2 vears' experience in recognizing and identifying plant pests known to occur within Hawaii. Six years' experience in State plant regulatory activities may be substituted for the degree requirement.

Interstate. From any State into or through any other State.

Limited permit. A document issued by an inspector or a person operating under a compliance agreement for the interstate movement of regulated articles to a specified destination for:

- (1) Consumption, limited utilization or processing, or treatment; or
- (2) Movement into or through the continental United States in conformity with a transit permit.

Mango seeds. Seeds of the fruit of mango (Mangifera spp.), fresh or dried. Means of conveyance. For the purposes of §318.13-17 of this subpart, "means of conveyance" shall mean a ship, truck, aircraft, or railcar.

Moved (move and movement). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii into or through the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States (or from or into or through other places as specified in this subpart). Local intrastate movement is in no way affected by the regulations in this subpart. ("Move" and "movement" shall be construed accordingly.)

Person. Any individual, corporation, company, society, association, or other organized group.

Plant pests. The injurious insects and plant diseases referred to in §318.13, in any stage of development.

Rice straw. Stems or straw of rice (Oryza sativa), when used as packing material or for other purposes.

Sealed (sealable) container. A completely enclosed container designed for the storage and/or transportation of commercial air, sea, rail, or truck cargo, and constructed of metal or fiberglass, or other similarly sturdy and impenetrable material, providing an enclosure accessed through doors that are closed and secured with a lock or seal. Sealed (sealable) containers used for sea shipments are distinct and separable from the means of conveyance carrying them when arriving in and in transit through the continental United States. Sealed (sealable) containers used for air shipments are distinct and separable from the means of conveyance carrying them before any transloading in the continental United States. Sealed (sealable) containers air for shipments transloading in the continental United States or for overland shipments in the continental United States may either be distinct and separable from the means of conveyance carrying them, or be the means of conveyance itself.

State. Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, and all other territories and possessions of the United States.

Transit permit. A written authorization issued by the Administrator for the movement of fruits and vegetables en route to a foreign destination that are otherwise prohibited movement by this subpart into or through the continental United States. Transit permits authorize one or more shipments over a designated period of time.

Transloading. The transfer of cargo from one sealable container to another, from one means of conveyance to another, or from a sealable container directly into a means of conveyance.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13280, Dec. 7, 1963; 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 45 FR 42242, June 24, 1980; 52 FR 8864, Mar. 20, 1987; 54 FR 391, Jan. 6, 1989; 55 FR 38979, Sept. 24, 1990; 56 FR 59207, Nov. 25, 1991; 58 FR 7958, Feb. 11, 1993; 59 FR 66641, Dec. 28, 1994; 61 FR 5924, Feb. 15, 1996; 62 FR 36974, July 10, 1997]

§318.13-2 Regulated articles.

- (a)(1) Prohibited movement. Fruits, vegetables, and other products specified in §318.13, and not eligible for inspection and certification under §318.13-4 or otherwise expressly authorized movement either in the regulations in this subpart or in administrative instructions issued by the Administrator of the Animal and Plant Health Inspection Service are prohibited movement.
- (2) Avocados which have been moved to Alaska in accordance with §318.13-4g are prohibited movement from Alaska into or through other places in the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.
- (b) Regulated movement. The movement of the following fruits and vegetables from Hawaii is allowed throughout the year upon compliance with the regulations in this subpart:

§ 318.13-3

Aechmea bracteata (Sw.) Griseb, fruitbearing panicles.

Allium spp., such as chives, garlic, leek, onions, and shallot.

Arrowhead (Sagittaria sagittifolia).

Arrowroot (Maranta arundinacea).

Artichoke, globe (Cynara scolymus). Artichoke, Jerusalem (Helianthus tuberosus).

Asparagus (Asparagus officinalis).

Bean sprouts, soy (Glycine hispida).

Bean sprouts, mungo (Phaseolus aureus). Beets (Beta vulgaris).

Broccoli (Brassica aleracea (Botrytis

group)).
Brussel sprouts (Brassica oleracera (Gemifera group)).

Burdock, great (Arctium lappa, Lappa major, L. edulis).

Butterbur (Petasites japonicus).

Cabbage (Brassica oleracea).

Cabbage, Chinese (Brassica pekinensis, B. chinensis).

Carrot (Daucus carota satira).

Cassava (Manihot sp.).

Cauliflower (Brassica oleracea [Botrytis group]).

Celery (Apium graveolens).

Chinese spinach (Amaranthus gangeticus). Chrysanthemum, garland (Chrysanthemum coronarium).

Coriander (Coriandrum sativum).

Dandelion (Taraxacum officinale).

Dropwort, water (Oenanthe stolonifera).

Durian (Durio zibethinus)

Foxheads or Nipple fruits (Solanum mamosum).

Ginger bracts (Zingiber mioga).
Ginger root (Zingiber officinale).

Honewort (Cryptotaenia canadensis).

Jesuit's nut (Trapa bicornis, T. natans).

Kudzu (Pueraria thunbergiana).

Lettuce (Lactuca sativa)

Lily root (Nelumbium nucifera).

Mahogany fruit (Swietenia mahagoni (L.) Jacq.).

Mustard greens (Brassica spp). Mugwort (Artemisia vulgaris).

Nightshade, Malabar (Bassella rubra).

Parsley (Petroselinum hortense).

Perilla (Perilla frutescens).

Pineapples (Ananas sativa), smooth Cay-

enne.

Pineapple hybrids 53-116, 59-433, D10, and D20 (Ananas Sativa).

Potato (Solanum tuberosum).

Radish greens (Raphanus sativus longipinnatus).

Radish, oriental (Raphanus sativus longipinnatus).

Rhubarb (Rheum rhaponticum).

Sausage fruit (Kigelia pinnata (Jacq.)).

Spinach (Spinacia oleracea).

Sweet corn (Zea mays).

Taro root, shoots and stalks (Colocasia antigorum esculentum).

Turnips (Brassica rapa).

Watercress (Nasturtium officinale).

Waternut (waterchestnut) (Eleocharis dulcis (E. tuberosa) (Scirpus tuberosus)).

Wood rose (Ipomoea tuberosa L.).

Yam bean root (Pachyrhizus erosus).

Yams Dioscorea (spp.).

Provided, That additions of other fruits and vegetables may be made to the foregoing list of regulated articles by the Administrator of the Animal and Plant Health Inspection Service when he determines that such fruits or vegetables, either as ordinarily packed and shipped or after treatment, do not involve risk of spreading any of the plant pests designated in the foregoing quarantine, and when such findings have been made known in administrative instructions of the Deputy Administrator of the Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 27 FR 8345, Aug. 22, 1962; 27 FR 8907, Sept. 7, 1962; 30 FR 5619, Apr. 21, 1965; 33 FR 14621, Oct. 1, 1968; 34 FR 4879, Mar. 6, 1969; 36 FR 24917, Dec. 24, 1971; 44 FR 10701, Feb. 23, 1979; 45 FR 42242, June 24, 1980; 52 FR 8864, Mar. 20, 1987; 55 FR 38979, Sept. 24, 1990; 59 FR 66641, Dec. 28, 1994; 63 FR 65648, Nov. 30, 1998]

§ 318.13-3 Conditions of movement.

(a) To any destination. Any regulated articles may be moved interstate from Hawaii in accordance with this subpart to any destination if:

(1) The movement is authorized by a valid certificate issued in accordance with §318.13-4 (a) or (b) and the movement complies with the conditions of any applicable compliance agreement made under §318.13-4(d), or

(2) The movement is exempted from certificates or limited permit requirements by administrative instructions in this subpart.

(b) (1) Torestricted destinations. Smooth Cayenne pineapples; fresh fruit cocktail; inflight baskets of fruit; and cut flowers as defined in §318.13-1 (except cut blooms of gardenia, mauna loa, and jade vine, and leis thereof) may be moved interstate from Hawaii under limited permit, to a destination specified in the permit, directly from an establishment operated in accordance with the terms of a compliance agreement executed by the operator of the establishment, if the articles have not been exposed to infestation and they are not accompanied by any articles prohibited interstate movement under this subpart.

- (2) Avocados may be moved interstate from Hawaii to Alaska if the provisions of §318.13-4g are met, and if they are accompanied by a limited permit issued by an APHIS inspector in accordance with §318.13-4(c).
- (3) Untreated fruits and vegetables from Hawaii may be moved interstate for irradiation treatment on the mainland United States if the provisions of §318.13-4f are met and if the fruits and vegetables are accompanied by a limited permit issued by an inspector in accordance with §318.13-4(c). The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this subpart.
- (c) To a foreign destination after transiting the continental United States. Fruits and vegetables from Hawaii otherwise prohibited movement from the State of Hawaii into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with §318.13–17 of this subpart.
- (d) Segregation of certified articles. Articles certified after treatment in accordance with §318.13-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Hawaii must be segregated and protected in a manner as required by the inspector.
- (e) Attachment of certificates and limited permits. Except as otherwise provided for certain air cargo and containerized cargo on ships moved in accordance with §318.13–10, each box, bale, crate, or other container of regulated articles moved under certificate or limited permit shall have the certificate or limited permit attached to the outside of the container: Provided, That if a certificate or limited permit is issued for a shipment of more than one container of for bulk products, the certificate or limited permit shall be attached to or stamped on the accom-

panying waybill, manifest, or bill of lading.

[33 FR 14621, Oct. 1, 1968, as amended at 52 FR 8864, Mar. 20, 1987; 54 FR 3578, Jan. 25, 1989; 55 FR 38979, Sept. 24, 1990; 58 FR 7959, Feb. 11, 1993; 59 FR 66641, Dec. 28, 1994; 62 FR 36974, July 10, 1997]

§318.13-4 Conditions governing the issuance of certificates or limited permits.

Certificates or limited permits may be issued for the movement of articles allowed movement in accordance with the regulations in this subpart under the following conditions:

- (a) Certification on basis of inspection or nature of lot involved. Fruits and vegetables designated in §318.13-2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation and infection, or without such inspection when the inspector determines that the lot for shipment is of such a nature that no danger of infestation or infection is involved.
- (b) Certification on basis of treatment. Fruits, vegetables, and other products designated in §318.13, which are not listed in §318.13-2(b) and for which treatments may be approved by the Administrator of the Animal and Plant Health Inspection Service, may be certified if such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure and if the articles were handled after such treatment in accordance with conditions prescribed in a compliance agreement executed by the applicant for the certificate or were handled after such treatment under such supervision of an inspector as the inspector may require. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.
- (c) Limited permits. (1) Limited permits may be issued by an inspector for

the movement of noncertified regulated articles designated in §318.13-3(b) of this subpart.

- (2) Limited permits may be issued by an inspector for the movement of fruits and vegetables otherwise prohibited movement under this subpart, if the articles are to be moved in accordance with §318.13–17 of this subpart.
- (3) Except when the regulations specify an inspector must issue the limited permit, limited permits may be issued by a person operating under a compliance agreement.
- (d) Compliance agreements. As a condition of issuance of a limited permit under paragraph (c)(3) of this section, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance agreement is required, the person applying for the permit or certificate must sign a compliance agreement stipulating that he will use all such permits or certificates issued to him in accordance with the provisions thereof and of the compliance agreement; will maintain at his establishment such safeguards against the establishment and spread of infestation and infection and comply with such conditions as to the maintenance of identity, handling (including post treatment handling), and interstate movement of regulated articles under such permits or certificates and the cleaning and treatment of means of conveyance and containers used in such movement of the articles, as may be required by the inspector in each specific case to prevent the spread of infestation or infection; and will allow inspectors to inspect the establishment and operations thereof.

(Approved by the Office of Management and Budget under control number 0579–0088)

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971; 52 FR 8864, Mar. 20, 1987; 55 FR 38979, Sept. 24, 1990; 57 FR 31307, July 15, 1992; 58 FR 7959, Feb. 11, 1993; 59 FR 48992, Sept. 26, 1994; 59 FR 66641, Dec. 28, 1994]

§318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.

(a) The type of treatment designated in this part as freezing shall be one of the commercially acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

- (b) The Administrator of the Animal and Plant Health Inspection Service, pursuant to the authority contained in §§318.13–2(b) and 318.13–4(b), hereby approves the process of freezing as a treatment for all fruits and vegetables described in §318.13, except as otherwise provided in paragraph (d) of this section. Such frozen fruits and vegetables may be certified for movement from Hawaii into or through any other Territory, State, or District of the United States. ¹
- (c) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii
- (d) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Administrator of the Animal and Plant Health Inspection Service, be destroyed by freezing.
- (e) Freezing of fruits and vegetables as authorized in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with the instructions of this section

[24 FR 10777, Dec. 29, 1959, as amended at 55 FR 38979, Sept. 24, 1990]

¹Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Protection and Quarantine Programs, P.O. Box 9067, Honolulu, Hawaii 96820.

§318.13-4b Administrative instructions prescribing methods of vaporheat treatment of certain fruits and vegetables from Hawaii.

- (a) Approved vapor-heat methods of treatment. (1) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an administratively approved procedure that meets the requirements for the certification, in accordance with §318.13-4(b), of papayas, bell peppers, eggplants, pineapples (other than smooth Cayenne), Italian squash, and tomatoes for movement from Hawaii:
- (i) In the approved vapor-heat treatment the fruits and vegetables are heated by saturated vapor at 110° F. which in condensing on the fruits and vegetables gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly and the melon fly, and in raising the temperature of the fruits and vegetables evenly and quickly so as to prevent damage to the treated products. In applying the treatment the saturated vapor is accompanied by a fine water mist and air admixture.
- (ii) The fruits and vegetables are cooled immediately after treatment and no wax or paraffin, either dry or in solution, may be used until after the treatment has been completed. Vaporheat treatments are approved only if the vapor conditions within the heat treating room, the manner of stacking the boxes containing the fruits and vegetables in the room, and all other conditions affecting the efficacy of the treatment are satisfactory to the supervising inspector, to assure mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly, and the melon fly.
- (iii) In applying this treatment, in accordance with these principles, the temperature of the fruits and vegetables shall be raised to 110° F., at the approximate center of the fruits and vegetables, within a period designated by the inspector, and shall be held at that level during the following 8¾ hours.
- (2) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an alternate administratively approved proce-

- dure that meets the requirements for the certification, in accordance with §318.13-4(b), of papayas for movement from Hawaii:
- (i) In the approved vapor-heat "quick run-up" treatment the papayas are heated by saturated vapor until the temperature at the approximate center of the fruit reaches a minimum of 117° F. The cooling and other conditions prescribed in paragraph (a)(1)(ii) of this section apply.
- (ii) The conditioning of the papayas preparatory to the treatment, as provided in paragraph (e) of this section, shall be completed within a period designated by the inspector.
- (3) The treatments provided for in paragraphs (a) (1) and (2) of this section must be conducted in a heat-treating room approved by the Animal and Plant Health Inspection Service and must be conducted under the supervision of an inspector of that Animal and Plant Health Inspection Service, who at all times shall have access to the fruits and vegetables while they are undergoing treatment.
- (4) The Animal and Plant Health Inspection Service will approve only those rooms which are properly constructed and adequately equipped to handle and treat the fruit or vegetables, at locations acceptable to the inspector in areas where required supervision can be furnished. Hereafter no treating plant will be approved until it is equipped with a self-recording temperature and humidity indicator acceptable to the inspector.
- (b) Subsequent handling. All handling in Hawaii subsequent to treatment of fruits and vegetables intended for shipment elsewhere in the United States must be carried out to meet requirements of and under the supervision of the inspector.
- (c) *Costs.* All costs of treatment and prescribed post-treatment safeguards, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by \$318.13-4(b), be borne by the owner of the fruits or vegetables, or his representative.
- (d) Department not responsible for damage. In the tests and experiments so far conducted, fruits and vegetables (other

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than eggplants) have not been injured and the results following treatment have been successful. It is however, emphasized that inexactness and carelessness in using the approved method of treatment may result in injury to the fruit and vegtables treated. In approving this treatment the U.S. Department of Agriculture does not accept responsibility for fruit or vegetable injury.

(e) Conditioning. (1) The treatments set forth in paragraph (a) of this section are in addition to any other procedure or practice that may be found by the shipper to be desirable to condition or otherwise handle fruits or vegetables that may be offered for treatment.

(2) Eggplants require conditioning before they will tolerate the approved vapor-heat treatment. Even when conditioned, darkening of their seeds usually occurs. In tests of eggplant tolerance to vapor-heat treatment, 6 to 8 hours conditioning at 110° F. and approximately 40 percent relative humidity before the prescribed 8¾-hour holding period has been found effective. This conditioning procedure or any other that the shipper has developed and found satisfactory may be used for eggplants at the shipper's risk.

(3) Papayas require conditioning before they will tolerate the approved vapor-heat 'quick run-up' treatment and even then some injury may result. Any conditioning that the shipper has developed and found satisfactory may be used with the 'quick run-up' treatment for papayas at the shipper's risk.

[24 FR 10777, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985, and further amended at 55 FR 38979, Sept. 24, 1990]

§318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.

The Administrator of the Animal and Plant Health Inspection Service hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for tomatoes from Hawaii. Tomatoes treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

- (a) Approved fumigation. (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Animal and Plant Health Inspection Service. The dosage shall be applied at the rate of 2 pounds per 1,000 cubic feet for $3\frac{1}{2}$ hours at 70° F. or above.
- (2) Tomatoes to be fumigated may be individually wrapped in gas-permeable tissue paper and packed in standard slatted tomato lugs or containers similarly vented. The fumigation chamber shall not be loaded to more than twothirds of its capacity. The 31/2-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Good circulation above and below the load, and between individual containers, shall be provided as soon as the tomatoes are loaded in the chamber and shall continue during the full period of fumigation and until the tomatoes have been removed to a well-ventilated location.
- (b) Supervision of treatments and subsequent handling. The treatment approved in this section and the subsequent handling of the tomatoes so treated must be under the supervision of a plant quarantine inspector of the Animal and Plant Health Inspection Service. Such treated tomatoes must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of tomatoes for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.
- (c) Costs. All costs of the treatments and prescribed posttreatment safeguards provided for in this section, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by §318.13-4(b), be borne by the owner of the tomatoes, or his representative.
- (d) Department not responsible for damage. (1) This treatment is recognized as one which may be marginal as to varietal tolerance of tomatoes and the owner or shipper is warned of possible injury. The Department of Agriculture

and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised.

(2) In test fumigations the following varieties of tomatoes indicated tolerance to the prescribed treatment when harvested early in the season and in the mature stage after some color development: Big Boy, Bounty, Break O Day, Burpee Hybrid, Earliana, Hawaii, Homestead, J. Moran, Kalohi, Kaulaii, Lanai, Marglobe, Maui, Niihau, N-46, Oahu, Pearson, Pritchard, Rutgers, San Malzano, Step 274, Step 278, Step 280, Step 281, Step 305, and Step 314. Varieties showing poor tolerance were Desert Pride, Kolea C. Manalucie, and Pennheart.

[27 FR 1551, Feb. 20, 1962, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985, and further amended at 55 FR 38979, Sept. 24, 1990]

§318.13-4d Administrative instructions concerning the interstate movement of avocados from Hawaii.

(a) Subject to the requirements of §§318.13-3 and 318.13-4 and all other applicable provisions of this subpart, avocados may be moved interstate from Hawaii only if they are treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

[61 FR 5924, Feb. 15, 1996]

§318.13-4e Administrative instructions governing the movement of litchis from Hawaii to other States.

(a) Litchis may be moved interstate from Hawaii only in accordance with this section or §318.13-4f and all other applicable provisions of this part.

(b) To be eligible for interstate movement under this section, litchi must be inspected and found free of the litchi fruit moth (*Cryptophlebia* spp.) and other plant pests by an inspector and then treated for fruit flies under the

supervision of an inspector with a treatment listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(c) Litchi from Hawaii may not be moved interstate into Florida. All cartons in which litchi from Hawaii are packed must be stamped "Not for importation into or distribution in FL."

[62 FR 36974, July 10, 1997]

§318.13-4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

(a) Approved irradiation treatment. Irradiation, carried out in accordance with the provisions of this section, is approved as a treatment for the following fruits and vegetables: Abiu, atemoya, carambola, litchi, longan, papaya, rambutan, and sapodilla.

(b) Conditions of movement. Fruits and vegetables from Hawaii may be authorized for movement in accordance with this section only if the following conditions are met:

(1) Location. The irradiation treatment must be carried out at an approved facility in Hawaii or on the mainland United States. Fruits and vegetables authorized under this section for treatment on the mainland may be treated in any State on the mainland United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, or Virginia. Prior to treatment, the fruits and vegetables may not move into or through Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, or Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into an authorized State by the shortest route.

(2) Approved facility. The irradiation treatment facility and treatment protocol must be approved by the Animal

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and Plant Health Inspection Service. In order to be approved, a facility must:

- (i) Be capable of administering a minimum absorbed ionizing radiation dose of 250 Gray (25 krad) to the fruits and vegetables;²
- (ii) Be constructed so as to provide physically separate locations for treated and untreated fruits and vegetables, except that fruits and vegetables traveling by conveyor directly into the irradiation chamber may pass through an area that would otherwise be separated. The locations must be separated by a permanent physical barrier such as a wall or chain link fence six or more feet high to prevent transfer of cartons. Untreated fruits and vegetables shipped to the mainland United States from Hawaii in accordance with this section may not be packaged for shipment in a carton with treated fruits and vegetables;
- (iii) Complete a compliance agreement with the Animal and Plant Health Inspection Service as provided in §318.13-4(d) of this subpart; and
- (iv) Be certified by Plant Protection and Quarantine for initial use and annually for subsequent use. Recertification is required in the event that an increase or decrease in radioisotope or a major modification to equipment that affects the delivered dose. Recertification may be required in cases where a significant variance in dose delivery is indicated.
- (3) Treatment monitoring. Treatment must be carried out under the monitoring of an inspector. This monitoring must include inspection of treatment records and unannounced inspectional visits to the facility by an inspector. Facilities that carry out continual irradiation operations must notify an inspector at least 24 hours before the date of operations. Facilities that carry out periodic irradiation operations must notify an inspector of scheduled operations at least 24 hours before scheduled operations.³

²The maximum absorbed ionizing radiation dose and the irradiation of food is regulated by the Food and Drug Administration under 21 CFR part 179.

- (4) *Packaging.* (i) Fruits and vegetables that are treated in Hawaii must be packaged in the following manner:
- (A) The cartons must have no openings that will allow the entry of fruit flies and must be sealed with seals that will visually indicate if the cartons have been opened. They may be constructed of any material that prevents the entry of fruit flies and prevents oviposition by fruit flies into the fruit in the carton.⁴
- (B) The pallet-load of cartons must be wrapped before it leaves the irradiation facility in one of the following ways:
 - (1) With polyethylene sheet wrap;

(2) With net wrapping; or

- (3) With strapping so that each carton on an outside row of the pallet load is constrained by a metal or plastic strap.
- (C) Packaging must be labeled with treatment lot numbers, packing and treatment facility identification and location, and dates of packing and treatment.
- (ii) Cartons of untreated fruits and vegetables that are moving to the mainland United States for treatment must be shipped in shipping containers sealed prior to interstate movement with seals that will visually indicate if the shipping containers have been opened.
- (iii) Litchi and longan from Hawaii may not be moved interstate into Florida. All cartons in which litchi or longan are packed must be stamped "Not for importation into or distribution in FL."
- (5) Dosage. The fruits and vegetables must receive a minimum absorbed ionizing radiation dose of 250 Gray (25 krad). 5
- (6) Dosimetry systems. (i) Dosimetry must demonstrate that the absorbed dose, including areas of minimum and maximum dose, is mapped, controlled, and recorded.

³Inspectors are assigned to local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories.

⁴If there is a question as to the adequacy of a carton, send a request for approval of the carton, together with a sample carton, to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Phytosanitary Issues Management Team, 4700 River Road Unit 140, Riverdale, Maryland 20737–1236.

⁵See footnote 2.

- (ii) Absorbed dose must be measured using a dosimeter that can accurately measure an absorbed dose of 250 Gray (25 krad).
- (iii) The number and placement of dosimeters used must be in accordance with American Society for Testing and Materials (ASTM) standards.⁶
- (7)(i) Certification on basis of treatment. A certificate shall be issued by an inspector for the movement of fruits and vegetables from Hawaii that have been treated and handled in Hawaii in accordance with this section. To be certified for interstate movement under this section, litchi from Hawaii must be inspected in Hawaii and found free of the litchi fruit moth (Cryptophlebia spp.) and other plant pests by an inspector before undergoing irradiation treatment in Hawaii for fruit flies.
- (ii) Limited permit. A limited permit shall be issued by an inspector for the interstate movement of untreated fruits and vegetables from Hawaii for treatment on the mainland United States in accordance with this section. To be eligible for a limited permit under this section, untreated litchi from Hawaii must be inspected in Hawaii and found free of the litchi fruit moth (Cryptophlebia spp.) and other plant pests by an inspector.
- (8) Records. Records or invoices for each treated lot must be made available for inspection by an inspector during normal business hours (8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays). An irradiation processor must maintain records as specified in this section for a period of time that exceeds the shelf life of the irradiated food product by 1 year, and must make these records available for inspection by an inspector. These records must include the lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.
- (c) Request for approval and inspection of facility. Persons requesting approval

of an irradiation treatment facility and treatment protocol must submit the request for approval in writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Oxford Plant Protection Center, 901 Hillsboro St., Oxford, NC 27565. Before the Administrator determines whether an irradiation facility is eligible for approval, an inspector will make a personal inspection of the facility to determine whether it complies with the standards of paragraph (b)(2) of this section.

- (d) Denial and withdrawal of approval. (1) The Administrator will withdraw the approval of any irradiation treatment facility when the irradiation processor requests in writing the withdrawal of approval.
- (2) The Administrator will deny or withdraw approval of an irradiation treatment facility when any provision of this section is not met. Before withdrawing or denying approval, the Administrator will inform the irradiation processor in writing of the reasons for the proposed action and provide the irradiation processor with an opportunity to respond. The Administrator will give the irradiation processor an opportunity for a hearing regarding any dispute of a material fact, in accordance with rules of practice that will be adopted for the proceeding. However, the Administrator will suspend approval pending final determination in the proceeding, if he or she determines that suspension is necessary to prevent the spread of any dangerous insect infestation. The suspension will be effective upon oral or written notification, whichever is earlier, to the irradiation processor. In the event of oral notification, written confirmation will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.
- (e) Department not responsible for damage. This treatment is approved to assure quarantine security against the Trifly complex. From the literature available, the fruits and vegetables authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator

⁶Designation E 1261, "Standard Guide for Selection and Calibration of Dosimetry Systems for Radiation Processing," American Society for Testing and Materials, *Annual Book of ASTM Standards*.

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and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are safe and wholesome for human consumption.

[62 FR 36974, July 10, 1997, as amended at 63 FR 65648, Nov. 30, 1998]

§318.13-4g Administrative instructions governing movement of avocados from Hawaii to Alaska.

Avocados may be moved interstate from Hawaii to Alaska without being certified in accordance with §318.13-4 (a) or (b) only under the following conditions:

- (a) Distribution and marking requirements. The avocados may be moved interstate for distribution in Alaska only, the boxes of avocados must be clearly marked with the statement "Distribution limited to the State of Alaska", and the shipment must be identified in accordance with the requirements of §318.13-6.
- (b) Commercial shipments. The avocados may be moved in commercial shipments only.
- (c) Packing requirements. The avocados must have been sealed in the packing house in Hawaii in boxes with a seal that will break if the box is opened.
- (d) Ports. The avocados may enter the continental United States only at the following ports: Portland, Oregon; Seattle, Washington; or any port in Alas-
- (e) Shipping requirements. The avocados must be moved either by air or ship and in a sealed container. The avocados may not be commingled in the same sealed container with articles that are intended for entry and distribution in any part of the United States other than Alaska. If the avocados arrive at either Portland, Oregon or Seattle, Washington, they may be transloaded only under the following conditions:

(1) Shipments by sea. The avocados may be transloaded from one ship to another ship at the port of arrival, provided they remain in the original sealed container and that APHIS inspectors supervise the transloading. If the avocados are stored before reloading, they must be kept in the original sealed container and must be in an area that is either locked or guarded at all times the avocados are present.

(2) Shipments by air. The avocados may be transloaded from one aircraft to another aircraft at the port of arrival, provided the following conditions

are met:

- (i) The transloading is done into sealable containers:
- (ii) The transloading is carried out within the secure area of the airport i.e., that area of the airport that is open only to personnel authorized by the airport security authorities;
- (iii) The area used for any storage of the shipment is within the secure area of the airport, and is either locked or guarded at all times the avocados are present. The avocados must be kept in a sealed container while stored in the continental United States en route to Alaska; and
- (iv) APHIS inspectors supervise the transloading.
- (3) Exceptions. No transloading other than that described in paragraphs (e) (1) and (2) of this section is allowed except under extenuating circumstances (such as equipment breakdown) and when authorized and supervised by an APHIS inspector.
- (f) Limited permit. Shipments of avocados must be accompanied by a limited permit issued by an APHIS inspector in accordance with §318.13-4(c) of this subpart. The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this section.

[59 FR 66642, Dec. 28, 1994]

§318.13-4h Administrative tions; conditions governing the movement of the fruit of carambola from Hawaii.

(a) Subject to the requirements of §§ 318.13-3 and 318.13-4 and any other applicable regulations, the fruit of carambola may be moved interstate from Hawaii only if it is treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Bactrocera cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

[59 FR 48992, Sept. 26, 1994]

§ 318.13-4i Administrative instructions; conditions governing the movement of green bananas from Hawaii.

Green bananas (*Musa* spp.) of the cultivars "Williams," "Valery," "Grand Nain," and standard and dwarf "Brazilian" may be moved interstate from Hawaii with a certificate issued in accordance with §§318.13-3 and 318.13-4 of this subpart if the bananas meet the following conditions:

(a) The bananas must be picked while green and packed for shipment within 24 hours after harvest. If the green bananas will be stored overnight during that 24-hour period, they must be stored in a facility that prevents access by fruit flies;

(b) No bananas from bunches containing prematurely ripe fingers (i.e., individual yellow bananas in a cluster of otherwise green bananas) may be harvested or packed for shipment;

(c) The bananas must be inspected by an inspector and found free of plant pests as well as any of the following defects: prematurely ripe fingers, fused fingers, or exposed flesh (not including fresh cuts made during the packing process); and

(d) The bananas must be safeguarded from fruit fly infestation from the time that they are packaged for shipment until they reach the port of arrival on the mainland United States.

[63 FR 65648, Nov. 30, 1998]

$\S 318.13-5$ Application for inspection.

Persons intending to move any articles that may be certified in accordance with the provisions of §318.13-4

shall make application for inspection or treatment on forms provided for this purpose as far as possible in advance of the contemplated date of shipment. They will also be required to prepare, handle, and safeguard such articles from infestation or reinfestation, and to assemble them at such points as the inspector may designate, placing them so that inspection may be readily made. Blank forms 6 for use in making applications for inspections will be furnished free upon request to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Honolulu, Hawaii.

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971; 53 FR 12910, Apr. 20, 1988; 54 FR 391, Jan. 6, 1989; 55 FR 38979, Sept. 24, 1990]

§ 318.13-6 Container marking and identity.

Except as provided in §318.13-17(c) of this subpart, shipments of regulated articles moved in accordance with this subpart must have the following information clearly marked on each container, or, for shipments of multiple containers or bulk products, on the waybill, manifest, or bill of lading accompanying the articles: Nature and quantity of contents; name and address of shipper, owner, or person shipping or forwarding the articles; name and address of consignee; shipper's identifying mark and number; and, the number of the certificate or limited permit authorizing movement, if one was issued.

(Approved by the Office of Management and Budget under control number 0579-0088)

[58 FR 7959, Feb. 11, 1993, as amended at 59 FR 67133, Dec. 29, 1994]

§318.13-7 Products as ships' stores or in the possession of passengers or crew.

(a) In the possession of passengers or crew members. Small quantities of fruits, vegetables, and cut flowers, subject to the quarantine and regulations in this subpart, when loose and free of packing materials, may be taken aboard any aircraft moving to Guam, ship, vessel, or other surface craft by passengers or members of the crew without inspection and certification in

⁶Form PQ-170.

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Hawaii. However, if such articles so taken aboard, are not eligible for inspection and certification under §318.13-4(a), they must be entirely consumed or disposed of before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States.

(b) As ship's stores or decorations. Fruits, vegetables, and cut flowers subject to the quarantine and regulations in this subpart may be taken aboard an aircraft moving from Hawaii to Guam, or a ship, vessel, or other surface craft in Hawaii without inspection or certification. Fruits, vegetables, and cut flowers that are so taken aboard such a carrier must be either (1) entirely consumed or removed from the aircraft moving from Hawaii to Guam, or the ship, vessel, or other surface craft before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States; or (2) in the case of a surface carrier, retained aboard such carrier under seal or otherwise disposed of subject to safeguards equivalent to those imposed on other prohibited or restricted products by §352.10 (b) and (c) of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 31 FR 999, Jan. 26, 1966; 54 FR 3578, Jan. 25, 1989]

§318.13-8 Articles and persons subject to inspection.

Persons, means of conveyance (including ships, other ocean-going craft, and aircraft), baggage, cargo, and any other articles, that are destined for movement, are moving, or have been moved from Hawaii to the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States are subject to agricultural inspection at the port of departure, the port of arrival, and/or any other authorized port. If an inspector finds any article prohibited movement by the quarantine and regulations of this subpart, he or she, taking the least drastic action, shall order the return of the article to the place of origin, or the exportation of the article, under safeguards satisfactory to him or her, or otherwise dispose of it, in whole or part, to comply

with the quarantine and regulations of this subpart.

[54 FR 3578, Jan. 25, 1989, as amended at 58 FR 7959, Feb. 11, 1993]

§318.13-9 Inspection of means of conveyance.

- (a) Inspection of aircraft prior to departure. No person shall move any aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, unless the person moving the aircraft has contacted an inspector and offered the inspector the opportunity to inspect the aircraft prior to departure and the inspector has informed the person proposing to move the aircraft that the aircraft may depart.
- (b) Inspection of aircraft moving to Guam. Any person who has moved an aircraft from Hawaii to Guam shall contact an inspector and offer the inspector the opportunity to inspect the aircraft upon the aircraft's arrival in Guam, unless the aircraft has been inspected and cleared in Hawaii prior to departure in accordance with arrangements made between the operator of the aircraft, the Animal and Plant Health Inspection Service, and the government of Guam.
- (c) Inspection of ships upon arrival. Any person who has moved a ship or other ocean-going craft from Hawaii to the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall contact an inspector and offer the inspector the opportunity to inspect the ship or other ocean-going craft upon its arrival.

[54 FR 3578, Jan. 25, 1989]

§318.13-10 Inspection of baggage, other personal effects, and cargo.

(a) Offer for inspection by aircraft passengers. Passengers destined for movement by aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States shall offer their carry-on baggage and other personal effects for inspection at the place marked for agricultural inspections, which will be located at the airport security checkpoint or the aircraft boarding gate, at the time they pass through the checkpoint or the gate. Passengers shall

offer their check-in baggage for inspection at agricultural inspection stations prior to submitting their baggage to the check-in baggage facility. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to such baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Passengers shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a passenger's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The passenger shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the passenger, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(b) Offer for inspection by aircraft crew. Aircraft crew members destined for movement by aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, shall offer their baggage and personal effects for inspection at the inspection station designated for the employing airline not less than 20 minutes prior to the scheduled departure time of the aircraft or the rescheduled departure time as posted in the public areas of the airport. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Aircraft crew members shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a crew member's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The crew member shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the crew member, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(c) Baggage inspection for persons traveling to Guam on aircraft. No person who has moved from Hawaii to Guam on an aircraft shall remove or attempt to remove any baggage or other personal effects from the area secured for customs inspections before the person has offered to an inspector, and has had passed by the inspector, his or her baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(d) Baggage acceptance and loading on aircraft. No person shall accept or load any check-in aircraft baggage destined for movement from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, unless a certificate is attached to the baggage, or the baggage bears a USDA stamp, inspection sticker, or other indication applied by an inspector representing that the baggage has been inspected and passed.

(e) Offer for inspection by persons moving by ship. No person who has moved on any ship or other ocean-going craft from Hawaii to the continental United States, Puerto Rico, Guam, or the Virgin Islands of the United States, shall remove or attempt to remove any baggage or other personal effects from the designated inspection area as provided

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in §318.13-10(h) on or off the ship or other ocean-going craft unless the person has offered to an inspector for inspection, and has had passed by the inspector, the baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

- (f) Loading of certain cargoes. (1) Except as otherwise provided in paragraph (f)(2) of this section, no person shall present to any common carrier or contract carrier for movement, and no common carrier or contract carrier shall load, any cargo containing fruits, vegetables, or other articles regulated under this subpart that are destined for movement from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, unless the cargo has been offered for inspection, passed by an inspector, and bears a USDA stamp or USDA inspection sticker, or unless a certificate or limited permit is attached to the cargo as specified in §318.13-3(e).
- (2) Cargo designated in paragraph (f)(1) of this section may be loaded without a USDA stamp or USDA inspection sticker, and without a certificate attached to the cargo or a limited permit attached to the cargo if the cargo is moved:
- (i) As containerized cargo on ships or other ocean-going craft or as air cargo;
- (ii) The carrier has on file documentary evidence that a valid certificate or limited permit was issued for the movement: and
- (iii) A notation of the existence of these documents is made by the carrier on the waybill, manifest, or bill of lading that accompanies the shipment.

- (3) Cargo moved in accordance with §318.13–17 of this subpart that does not have a limited permit attached to the cargo must have a limited permit attached to the waybill, manifest, or bill of lading accompanying the shipment.
- (g) Removal of certain cargoes in Guam. No person shall remove or attempt to remove from a designated inspection area as provided in §318.13–10(h), on or off the means of conveyance, any cargo moved from Hawaii to Guam containing fruits, vegetables, or other articles regulated under this subpart, unless the cargo has been inspected and passed by an inspector in Guam.
- (h) Space and facilities for baggage inspection. Baggage inspection will not be performed until the person in charge or possession of the ship, other oceangoing craft, or aircraft provides space and facilities on the means of conveyance, pier, or airport that are adequate, in the inspector's judgment, for the performance of inspection.

[54 FR 3579, Jan. 25, 1989, as amended at 58 FR 7959, Feb. 11, 1993]

§318.13-11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains plant pests, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1, "Materials incorporated by reference."

[54 FR 3580, Jan. 25, 1989]

§ 318.13-12 Posting of warning notice and distribution of baggage declarations.

(a) Before any aircraft moving to Guam from Hawaii, or any ship, vessel,

or other surface craft from Hawaii arrives within the boundaries of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, the master, or other responsible officer thereof, shall cause to be distributed to each adult passenger thereon a baggage declaration 7 to be furnished by the U.S. Department of Agriculture, calling attention to the provisions of the Plant Quarantine Act. and the quarantine and regulations in this subpart. These baggage declarations shall be executed and signed by the passengers and shall be collected and delivered by the master or other responsible officer of the ship, vessel, other surface craft, or aircraft, to the inspector on arrival at the quarantine or inspection area.

(b) Every person owning or controlling any dock, harbor, or landing field in Hawaii from which ships, vessels, other surface craft, or aircraft leave for ports in the continental United States. Guam, Puerto Rico, or the Virgin Islands of the United States shall post, and keep posted at all times, in one or more conspicuous places in passenger waiting rooms on or in said dock, harbor, or landing field a warning notice directing attention to the quarantine and regulations in this subpart. 8 Every master, or other responsible officer of any ship, vessel, other surface craft, or aircraft leaving Hawaii destined to a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall similarly post, and keep posted at all times, such a warning notice in the ship, vessel, other surface craft, or aircraft under his charge.

[24 FR 10777, Dec. 29, 1959, as amended at 53 FR 12910, Apr. 20, 1988; 54 FR 391, Jan. 6, 1989. Redesignated and amended at 54 FR 3580, Jan. 25, 1989]

§318.13-13 Movements by the Department of Agriculture.

Notwithstanding any other restrictions of this subpart, articles subject to the requirements of the regulations in this subpart may be moved if they are moved:

- (a) By the United States Department of Agriculture for experimental or scientific purposes;
- (b) Pursuant to a Departmental permit issued for the article and kept on file at the port of departure;
- (c) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plant pests and diseases: and.
- (d) With a Departmental tag or label bearing the number of the Departmental permit issued for the article securely attached to the outside of the container of the article or securely attached to the article itself if not in a container.

[54 FR 3580, Jan. 25, 1989]

§318.13-14 Parcel post inspection.

Inspectors are authorized in accordance with the postal laws and regulations and in cooperation with employees of the U.S. Post Office Department, to inspect parcel post packages placed in the mails in Hawaii and destined to other parts of the United States, to determine whether such packages contain fruits, vegetables, or other regulated articles, the movement of which is not authorized under this subpart, to examine such articles for plant pests, and to notify the postmaster in writing of any violation of this subpart or part 330 of this chapter in connection therewith.

[33 FR 14623, Oct. 1, 1968. Redesignated at 54 FR 3580, Jan. 25, 1989]

§318.13-15 Costs and charges.

Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the one requesting such services. The Animal and Plant Health Inspection Service will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to

⁷Form No. PPQ 232.

 $^{^8\}mbox{An}$ acceptable warning notice appears on Form PPQ–232.

the physical movement of regulated articles or plant pests.

[33 FR 14623, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 54 FR 3580, Jan. 25, 1989, and further amended at 55 FR 38979, Sept. 24, 1990]

§318.13-16 Withdrawal of certificates, transit permits, limited permits, or compliance agreements.

Any certificate, transit permit, limited permit, or compliance agreement which has been issued or authorized may be withdrawn by an inspector orally or in writing, if such inspector determines that the holder thereof has not complied with all conditions under the regulations for the use of such document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate, transit permit, limited permit, or compliance agreement has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate, transit permit, or limited permit was wrongfully withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088)

[52 FR 8865, Mar. 20, 1987. Redesignated at 54 FR 3580, Jan. 25, 1989, and further amended at 55 FR 38979, Sept. 24, 1990; 58 FR 7959, Feb. 11, 1993; 58 FR 40190, July 27, 1993; 59 FR 67133, Dec. 29, 1994]

§318.13-17 Transit of fruits and vegetables from Hawaii into or through the continental United States.

Fruits and vegetables from Hawaii otherwise prohibited movement from the State of Hawaii into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance

with this section and any other applicable provisions of this subpart. Any additional restrictions on such movement that would otherwise be imposed by part 301 of this chapter and §§ 318.30 and 318.30a of this part shall not apply.

- (a) Transit permit. (1) A transit permit is required for the arrival, unloading, and movement into or through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved into or through the continental United States from Hawaii. Application for a transit permit must be made in writing. The transit permit application must include the following information:
- (i) The specific types of fruits and vegetables to be shipped (only scientific or English names are acceptable);
- (ii) The means of conveyance to be used to transport the fruits and vegetables into or through the continental United States;
- (iii) The port of arrival in the continental United States, and the location of any subsequent stop;
- (iv) The location of, and the time needed for, any storage in the continental United States;
- (v) Any location in the continental United States where the fruits and vegetables are to be transloaded;
- (vi) The means of conveyance to be used for transporting the fruits and vegetables from the port of arrival in the continental United States to the port of export;
- (vii) The estimated time necessary to accomplish exportation, from arrival at the port of arrival in the continental United States to exit at the port of export:

(viii) The port of export; and

(ix) The name and address of the applicant and, if the applicant's address is not within the territorial limits of the United States, the name and address in the United States of an agent whom the applicant names for acceptance of service of process.

⁹Applications for transit permits should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236

- (2) A transit permit will be issued only if the following conditions are met:
- (i) APHIS inspectors are available at the port of arrival, port of export, and any locations at which transloading of cargo will take place, and, in the case of air shipments, at any interim stop in the continental United States, as indicated on the application for the transit permit;
- (ii) The application indicates that the proposed movement would comply with the provisions in this section applicable to the transit permit; and
- (iii) During the 12 months prior to receipt of the application by APHIS, the applicant has not had a transit permit withdrawn under §318.13-16 of this subpart, unless the transit permit has been reinstated upon appeal.
- (b) Limited permit. Fruits and vegetables shipped from Hawaii into or through the continental United States under this section must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the continental United States, and at any other location in the continental United States where an air shipment is authorized to stop or where overland shipments change means of conveyance. An inspector will issue a limited permit if the following conditions are met:
- (1) The inspector determines that the specific type and quantity of the fruits and vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English names are acceptable.) The fruits and vegetables shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this section; and
- (2) The inspector establishes that the shipment of fruits and vegetables has been prepared in compliance with the provisions of this section.
- (c) Marking requirements. Each of the smallest units, including each of the smallest bags, crates, or cartons, containing fruits and vegetables for transit into or through the continental United States under this section must be conspicuously marked, prior to the

- locking and sealing of the container in Hawaii, with a printed label that includes a description of the specific type and quantity of the fruits and vegetables (only scientific or English names are acceptable), the transit permit number under which the fruits and vegetables are to be shipped, and, in English, the fact that they were grown in Hawaii and the statement "Distribution in the United States is Prohibited."
- (d) Handling of fruits and vegetables. Fruits and vegetables shipped into or through the continental United States from Hawaii in accordance with this section may not be commingled in the same sealed container with articles that are intended for entry and distribution in the continental United States. The fruits and vegetables must be kept in sealed containers from the time the limited permit required by paragraph (b) of this section is issued, until the fruits and vegetables exit the continental United States, except as otherwise provided in the regulations in this section. Transloading must be carried out in accordance with the requirements of paragraphs (a), (h), and (i) of this section.
- (e) Area of movement. The port of arrival, the port of export, ports for air stops, and overland movement within the continental United States of fruits and vegetables shipped under this section is limited to a corridor that includes all States of the continental United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into the designated corridor by the shortest route. Movement through the continental United States must begin and end at locations staffed by APHIS inspectors.¹⁰

¹⁰For a list of ports staffed by APHIS inspectors, contact the Animal and Plant

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(f) Movement of fruits and vegetables. Transportation through the continental United States shall be by the most direct route to the final destination of the shipment in the country to which it is exported, as determined by APHIS based on commercial shipping routes and timetables and set forth in the transit permit. No change in the quantity of the original shipment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the shipment from the itinerary described in the transit permit and limited permit is allowed unless authorized by an APHIS inspector upon determination by the inspector that the change will not significantly increase the risk of plant pests or diseases in the United States, and unless each port to which the shipment is diverted is staffed by APHIS inspec-

(g) Notification in case of emergency. In the case of an emergency such as an accident, a mechanical breakdown of the means of conveyance, or an unavoidable deviation from the prescribed route, the person in charge of the means of conveyance must, as soon as practicable, notify the APHIS office at the port where the cargo arrived in the continental United States.

(h) Shipments by sea. Except as authorized by this paragraph, shipments arriving in the continental United States by sea from Hawaii may be transloaded once from a ship to another ship or, alternatively, once to a truck or railcar at the port of arrival and once from a truck or railcar to a ship at the port of export, and must remain in the original sealed container, under except extenuating cumstances and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the shipment is allowed, except under ex-

Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236. tenuating circumstances (e.g., equipment breakdown) and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(i) Shipments by air. (1) Shipments arriving in the continental United States by air from Hawaii may be transloaded only once in the continental United States. Transloading of air shipments must be carried out in the presence of an APHIS inspector. Shipments arriving by air that are transloaded may be transloaded either into another aircraft or into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second air stop within the designated corridor, as authorized in the transit permit and as provided in paragraph (i)(2) of this section. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air shipments will be authorized only if the following conditions are met:

(i) The transloading is done into sealable containers;

(ii) The transloading is carried out within the secure area of the airport—*i.e.*, that area of the airport that is open only to personnel authorized by the airport security authorities;

(iii) The area used for any storage is within the secure area of the airport; and

(iv) APHIS inspectors are available to provide the supervision required by paragraph (i)(1) of this section.

(2) Except as authorized by paragraph (f) of this section, shipments that continue by air from the port of arrival in

the continental United States may be authorized by APHIS for only one additional stop in the continental United States, provided the second stop is within the designated corridor set forth in paragraph (e) of this section and is staffed by APHIS inspectors. As an alternative to transloading a shipment arriving in the United States into another aircraft, shipments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second authorized air stop within the designated corridor. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

- (j) Duration and location of storage. Any storage in the continental United States of fruits and vegetables shipped under this section must be for a duration and in a location authorized in the transit permit required by paragraph (a) of this section. Areas where such fruits and vegetables are stored must be either locked or guarded at all times the fruits and vegetables are present. Cargo shipped under this section must be kept in a sealed container while stored in the continental United States.
- (k) Temperature requirement. Except for time spent on aircraft and except during storage and transloading of air shipments, the temperature in the sealed containers containing fruits and vegetables moved under this section must be $60^{\circ}\mathrm{F}$ or lower from the time the fruits and vegetables leave Hawaii until they exit the continental United States
- (l) *Prohibited materials.* (1) The person in charge of or in possession of a sealed container used for movement into or

through the continental United States under this section must ensure that the sealed container is carrying only those fruits and vegetables authorized by the transit permit required under paragraph (a) of this section; and

(2) The person in charge of or in possession of any means of conveyance or container returned to the United States without being reloaded after being used to export fruits and vegetables from the United States under this section must ensure that the means of conveyance or container is free of materials prohibited importation into the United States under this chapter.

(m) Authorization by APHIS of the movement of fruits and vegetables into or through the continental United States under this section does not imply that the fruits and vegetables are enterable into the destination country. Shipments returned to the United States from the destination country shall be subject to all applicable regulations, including "Subpart—Fruits and Vegetables" of part 319 of this chapter, and part 352 of this chapter.

(n) Any restrictions and requirements with respect to the arrival, temporary stay, unloading, transloading, transiting, exportation, or other movement or possession in the United States of any fruits or vegetables under this section shall apply to any person who, respectively, brings into, maintains, unloads, transloads, transports, exports, or otherwise moves or possesses in the United States such fruits or vegetables, whether or not that person is the one who was required to have a transit permit or limited permit for the fruits or vegetables or is a subsequent custodian of the fruits or vegetables. Failure to comply with all applicable restrictions and requirements under this section by such a person shall be deemed to be a violation of this section.

(Approved by the Office of Management and Budget under control number 0579–0088)

[58 FR 7959, Feb. 11, 1993; 58 FR 40190, July 27, 1993, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67609, Dec. 30, 1994]

§ 318.30

Subpart—Sweetpotatoes

§318.30 Notice of quarantine.

(a) The Administrator of the Animal and Plant Health Inspection Service has determined that it is necessary to quarantine Hawaii and Puerto Rico to prevent the spread to other parts of the United States of the sweetpotato postfasciatus scarabee (Euscepes Fairm.), and the sweetpotato stem borer (Omphisa anastomosalis Guen.), dangerous insect infestations new to and not widely prevalent or distributed within or throughout the United States, and that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread to other parts of the United States of the sweetpotato scarabee.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing as required thereunder, the Administrator of the Animal and Plant Health Inspection Service therefore has quarantined Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and the sweetpotato stem borer (Omphisa anastomosalis Guen.).

(c) No variety of sweetpotatoes (Ipomoea batatas Poir.) shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: Provided, That the prohibitions of this section shall not prohibit the movement of sweetpotatoes in either direction between Puerto Rico and the Virgin Islands of the United States; nor prohibit the movement of sweetpotatoes by the U.S. Department of Agriculture for scientific or experimental purposes; nor prohibit the movement from Puerto Rico or the Virgin Islands of the United States of sweetpotatoes which the Deputy Administrator of the Plant Protection and Quarantine Programs may authorize under permit or certificate to such northern ports of the

United States as he may designate in such permit or certificate, conditioned upon the fumigation of sweetpotatoes under the supervision of an inspector of said Programs either in Puerto Rico or the Virgin Islands of the United States or at the designated port of arrival, in a manner approved by the said Deputy Administrator; nor prohibit the movement from Hawaii of sweetpotatoes which the Deputy Administrator of the Plant Protection and Quarantine Programs may authorize under permit or certificate to such ports of the United States as he may designate in such permit or certificate, conditioned upon the fumigation of such sweetpotatoes in Hawaii under the supervision of an inspector of said Programs, in a manner approved by the said Deputy Administrator: Provided, further, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that facts exist as to pest risk involved in the movement of sweetpotatoes or any classification thereof to which this subpart applies, making it safe to modify, by making less stringent, the requirements contained therein, he shall set forth and publish such finding in administrative instructions specifying the manner in which the subpart should be made less stringent, whereupon such modification shall become effective.

(d) As used in this section, the term State, Territory, or District of the United States means "Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States.'

[24 FR 10777, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25,

§318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

The Deputy Administrator of the Plant Protection and Quarantine Programs hereby finds that facts exist as to the pest risk involved in the movement of sweetpotatoes to which §318.30 applies, making it safe to modify by making less stringent the requirements of §318.30 with respect to washed sweetpotatoes graded by inspectors of

the Commonwealth of Puerto Rico in accordance with Puerto Rican standards which do not provide a tolerance for insect infestation or evidence of insect injury and found by such inspectors to comply with such standards. Hereafter, in addition to movement ausuch thorized under §318.30(c), sweetpotatoes will be eligible for inspection by a Branch inspector to determine whether they are free of the scarabee sweetpotato (Euscepes postfasciatus Fairm.) and for certification for movement from Puerto Rico to Baltimore, Maryland, and Atlantic Coast ports north thereof if found free of such insect, provided the sweetpotatoes are certified by an inspector of the Commonwealth of Puerto Rico as having been so washed and graded and as having been grown in accordance with the following proce-

- (a) Fields in which the sweetpotatoes have been grown shall have been given a preplanting treatment with an approved soil insecticide.
- (b) Before planting in such treated fields, the sweetpotoato draws and vine cuttings shall have been dipped in an approved insecticidal solution.
- (c) During the growing season an approved insecticide shall have been applied to the vines at prescribed intervals.

The sweetpotatoes shall be inspected by an inspector of the Plant Protection and Quarantine Programs prior to shipment from Puerto Rico.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

§318.47 Notice of quarantine.

(a) The Secretary of Agriculture having previously quarantined Hawaii and Puerto Rico on account of the pink bollworm of cotton (Pectinophora gossypiella Saunders) and the cotton blister mite (Eriophyes gossypii Banks), insect pests new to and not widely prevalent or distributed within and throughout the United States, now determines that it is necessary to extend the quarantine to prevent the spread of these insects from the Virgin

Islands of the United States, where they are known to occur.

(b) Under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161) and having given the public hearing required thereunder, the Secretary of Agriculture hereby quarantines the Territory of Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the said insect pests.

(c) All parts and products of plants of the genus Gossypium, such as seeds including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and all second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton, are hereby prohibited movement from the Hawaii, Puerto Rico, and the Virgin Islands of the United States into or through any other State, Territory or District of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: Provided, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any such regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective.

(d) As used in this subpart, unless the context otherwise requires, the term *State, Territory, or District of the United States* means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 318.47a Administrative instructions relating to Guam.

The plants, products and articles specified in §318.47(c) may be moved

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from Hawaii into or through Guam without restriction under this subpart.

RULES AND REGULATIONS

CROSS REFERENCE: For rules and regulations governing the importation of cotton and cottonseed products into the United States, see §§319.8 to 319.8–27 of this chapter.

§318.47-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

- (a) Cotton. Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton.
- (b) *Seed cotton*. The unginned lint and seed admixture, just as it is picked from the cotton boll.
- (c) *Cottonseed.* The seed of the cotton plant, either separated from the lint or as a component part of seed cotton.
- (d) *Lint*. All forms of raw or unmanufactured ginned cotton, either baled or unbaled, including all cotton fiber, except linters, which has not been woven or spun, or otherwise manufactured.
- (e) *Linters.* All forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed, including that form referred to as "hull fiber."
- (f) Waste. All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste; and waste products derived from the milling of cottonseed.
- (g) Seedy waste. Picker waste, gin waste, and oil mill waste, and any other cotton by-products capable of carrying a high percentage of cotton-seed.
- (h) *Clean waste.* Wastes derived from the processing of lint in machines after the card machine, including card strips but not card fly.
- (i) Bale covers. Second-hand burlap and other second-hand fabric by what-

ever trade designation, which have been used, or are of the kinds ordinarily used, for wrapping or otherwise containing cotton. Burlap and other fabric of the kinds ordinarily used for wrapping cotton, when new or unused, are excluded from this definition.

- (j) Certificate (certification, certified). A type of authorization, evidencing freedom from infestation, issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste, seed cotton, cottonseed, cottonseed hulls, cake, and meal, and bale covers in accordance with the regulations in this subpart. "Certification" and "certified" shall be construed accordingly.
- (k) Permit. A type of general authorization issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste other than seedy waste, cottonseed cake and meal, and bale covers in accordance with the regulations in this subpart.
- (l) Fumigated. Fumigated under the supervision of an inspector of the Plant Protection and Quarantine Programs in a fumigation plant approved by the Deputy Administrator of said Programs and in accordance with methods approved by him.
- (m) Moved (movement, move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii, Puerto Rico, or the Virgin Islands of the United States, into or through any other State, Territory, or District of the United States. "Movement" and "move" shall be construed accordingly.

§ 318.47-2 Articles the movement of which is prohibited or regulated.

- (a) Articles prohibited movement. The movement of seed cotton, cottonseed, and seedy waste, when unfumigated, is prohibited except as provided in §318.47–3(b)(2).
- (b) Articles the movement of which is regulated. Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers may be

moved upon compliance with the conditions prescribed in §318.47–3.

§318.47-3 Conditions governing the issuance of certificates and permits.

(a) Fumigated lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers. Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers, fumigated in the Territory or District of origin and so certified, are allowed unrestricted movement to any port.

(b) Unfumigated lint, linters, waste, and bale covers. (1) Unfumigated Hawaiian, Puerto Rican, or Virgin Islands of the United States lint, linters, waste other than seedy waste, and bale covers will be allowed to move under permit, by all-water route, for entry only at the ports of Norfolk, Baltimore, New York, Boston, San Francisco, and Seattle, or other port of arrival designated in the permit, and at such designated port of arrival shall become subject to the regulations governing the handling of cotton imported from foreign countries.

(2) Fumigation may be waived and certificates issued for lint, linters, and waste which have been determined by an inspector of the Plant Protection and Quarantine Programs to have been so manufactured or processed by bleaching, dyeing, or other means, as to have removed all seeds, or to have destroyed all insect life therein.

(c) Cottonseed cake and meal. (1) Cottonseed cake and meal which have been inspected in the Territory or District of origin and certified by an inspector of the Plant Protection and Quarantine Programs as being free from contamination with whole, uncrushed cottonseed, will be allowed unrestricted movement to any port.

(2) Hawaiian, Puerto Rican, and Virgin Islands of the United States cotton-seed cake and meal, when neither fumigated nor inspected in accordance with the provisions of this section, will be allowed entry under permit through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination with uncrushed cottonseed. If found to be free from such contamination, the cottonseed

cake or meal may be released from further entry restrictions. Cottonseed cake or meal found to be contaminated shall be refused entry or subjected as a condition of entry and release to such safeguards as may be prescribed by the inspector from such administratively approved methods as will, in his judgment, be necessary to eliminate infestations of the pink bollworm or cotton blister mite.

§318.47-4 Shipments by the Department of Agriculture.

Cotton may be moved by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Service.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

§318.58 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine Puerto Rico and the Virgin Islands of the United States to prevent the spread of certain dangerous insect infestations not heretofore widely prevalent or distributed within and throughout the United including the fruit flies, Anastrepha suspensa (Loew), and A. mombinpraeoptans Sein, and the bean pod borer, Maruca testulalis (Geyer), and that it is necessary to quarantine the said Virgin Islands to prevent the spread of a cactus borer, Cactoblastis cactorum (Berg.), not heretofore widely prevalent or distributed within and throughout the United States; and Puerto Rico and the said Virgin Islands are therefore quarantined.

(b) No fruits or vegetables, in the raw or unprocessed state, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or § 318.58-1

carried, transported, moved, or allowed to be moved, by any person from Puerto Rico or the Virgin Islands of the United States into or through Guam, Hawaii, or the continental United States, and no cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, by any person from the Virgin Islands of the United States into or through Guam, Puerto Rico, or the continental United States; in any manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: Provided, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

- (c) No restrictions are placed hereby on the movement of fruits or vegetables in either direction between Puerto Rico and the Virgin Islands of the United States.
- (d) This subpart leaves in full force and effect §318.30 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.). It also leaves in full force and effect §318.60 which restricts the movement

from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(e) Regulations governing the movement of live plant pests designated in this section are contained in part 330 of this chapter.

[28 FR 13281, Dec. 7, 1963, as amended at 30 FR 748, Jan. 23, 1965]

RULES AND REGULATIONS

§318.58-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the Animal and Plant Health Inspection Service authorized to act in the Administrator's stead.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Cactus plants. Any of various fleshystemmed plants of the botanical family Cactaceae.

Certificate. A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved: or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment ap-

Continental United States. The 48 contiguous States, Alaska, and the District of Columbia.

Fruits and vegetables. The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

Inspector. An inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture.

Interstate. From any State into or through any other State.

Limited permit. A document issued by an inspector for the interstate movement of regulated articles to a specified destination for:

- (1) Consumption, limited utilization or processing, or treatment, in conformity with a compliance agreement;
- (2) Movement into or through the continental United States in conformity with a transit permit.

Means of conveyance. For the purposes of §318.58–12 of this subpart, "means of conveyance" shall mean a ship, truck, aircraft, or railcar.

Moved (movement and move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person as specified in §318.58(b) with respect to fruits and vegetables and with respect to fruits and vegetables and with respect to cactus plants and parts thereof. "Movement" and "move" shall be construed accordingly.

Person. Any individual, corporation, company, society, association, or other organized group.

Plant litter. Leaves, twigs, or other portions of plants, or plant remains or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

Sealed (sealable) container. A completely enclosed container designed for the storage and/or transportation of commercial air, sea, rail, or truck cargo, and constructed of metal or fiberglass, or other similarly sturdy and impenetrable material, providing an enclosure accessed through doors that are closed and secured with a lock or seal. Sealed (sealable) containers used for sea shipments are distinct and separable from the means of conveyance carrying them when arriving in and in transit through the continental United States. Sealed (sealable) containers used for air shipments are distinct and separable from the means of conveyance carrying them before any

transloading in the continental United States. Sealed (sealable) containers for air shipments used transloading in the continental United States or for overland shipments in the continental United States may either be distinct and separable from the means of conveyance carrying them, or be the means of conveyance itself.

State. Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, and all other territories and possessions of the

United States.

Transit permit. A written authorization issued by the Administrator for the movement of fruits and vegetables en route to a foreign destination that are otherwise prohibited movement by this subpart into or through the continental United States. Transit permits authorize one or more shipments over a designated period of time.

Transloading. The transfer of cargo from one sealable container to another, from one means of conveyance to another, or from a sealable container directly into a means of conveyance.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971; 54 FR 3580, Jan. 25, 1989; 58 FR 7961, Feb. 11, 1993]

§318.58-2 Regulated articles.

- (a) Prohibited movement. Fruits, vegetables, and other products specified in §318.58 and not eligible for inspection and certification under §318.58-4 or otherwise expressly authorized movement in the regulations in this subpart are prohibited movements.
- (b) Regulated movement. (1) Subject to the conditions provided in this section, and to any treatment prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, the following fruits and vegetables may be moved when they are free from plant litter, are marked in compliance with §318.58-6, and have been inspected by an inspector and certified by him to be free from injurious insect infestation (including the West Indian fruitfly and the bean pod borer) or to have been given prescribed treatment:

Citrus fruits (orange, grapefruit, lemon, citron, and lime);

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Corn (sweet corn on cob):

Mangoes (*Mangifera* spp.), no larger than size 8 (no more than 700 g each), when treated as prescribed in the Plant Protection and Ouarantine Treatment Manual:

Peppers;

String beans, lima beans, faba beans, and pigeon peas, in the pod, and fresh okra. However, products within this subparagraph will be certified for movement to Pacific Coast ports or to Atlantic Coast ports south of Baltimore, Maryland, only when they have been treated as prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, and under the supervision of an inspector. Such products may be certified for movement to Baltimore, Maryland, and Atlantic Coast ports north thereof without such treatment, but untreated fresh okra may be so certified only for immediate processing or consumption in these northern areas.

(2) The following fruits and vegetables are subject to inspection, either in the field or when presented for shipment, as the inspector may require, but unless found by him to be infested shall be free to move without certification, marking, treatment, or other requirements of this subpart, except that they must be free from plant litter and soil: Provided, That if the inspector shall find any field, grove, lot, shipment, or container of such fruits and vegetables infested with injurious insects, he shall notify the owner or person in charge, in writing, of the existence of the infestation and the extent thereof, and thereafter movement of the fruit or vegetable so specified shall be prohibited while the infestation persists, unless in the judgment of the inspector movement may be safely allowed subject to certification after having been given an approved treatment, or after sorting, conditioning, or other effective safeguard measures:

Algarroba pods (Hymenaea courbaril).

Allium spp. (onion, chive, garlic, leek, scallion, shallot).

Anise (Pimpinella anisum).

Apio, celery root (Arracacia xanthorrhiza).

Arrowroot (Maranta arundinacea).

Artichoke, Jerusalem (Helianthus tuberosus).

Asparagus.

Avocado.

Balsamapple, balsam-pear (Momordica balsamina; M. charantia).

Banana and plantain (fruit).

Banana leaves (fresh, without stalks or midrib).

Beans (fresh shelled lima and faba beans).

Beet, including Swiss chard.

Brassica oleracea (cabbage, cauliflower, Brussels sprouts, broccoli, collard, kale, kohlrabi, Savoy).

Breadfruit, jackfruit (Artocarpus spp.).

Cacao bean (Theobroma cacao).

Carrot.

Celery.

Chayote (Sechium edule). Chicory, endive (Cichorium intybus).

Citrus fruit (citron, grapefruit, lemon, lime, and orange) destined for ports on the Atlantic seaboard north of and including Bal-

timore. Cucumbers, including Angola cucumber (Sicania odorata).

Culantro, coriander (Eryngium foetidum; Coriandrum sativum).

Dasheen, malanga, taro (Colocasia and Caladium spp.).

Eggplant.

Fennel.

Ginger root (Zingiber officinale).

Horseradish (Armoracia).

Kudzu (Pueraria thunbergiana). Lerens, sweet corn root (Calathea allouia).

Lettuce

Mangosteen (Garcinia mangostana).

Mustard greens.

Palm hearts.

Papaya, lechosa (Carica papaya).

Parsley.

Parsnip.

Peas (in pod) (Pissum sativum).

Pigeonpea (fresh shelled).

Pineapple.

Potato.

Quenepa (Melicocca bijuga).

Radish.

Rhubarb.

Rutabaga.

Spinach.

Squash, pumpkin, watermelon, vegetable-marrow, cantaloup, calabaza.

Strawberry.

Tamarind beanpod (Tamarindus indica).

Tomato.

Turnip.

Watercress.

Waterlily root, lotus root (Nelumbium nelumbo).

Yam, name (Dioscorea spp.).

Yautia, tanier (Xanthosoma spp.).

Yuca, cassava (Manihot esculenta).

(3) Cactus plants or parts thereof from the Virgin Islands of the United States may be moved to Guam, Puerto Rico, or the continental United States when they have been given an approved treatment and are so certified by an inspector.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 30 FR 749, Jan. 23, 1965; 36 FR 24917, Dec. 24, 1971. Redesignated and amended at 54 FR 3580, Jan. 25, 1989; 55 FR 5436. Feb. 15, 19901

§318.58-3 Conditions of movement.

- (a) To any destination. Any regulated articles may be moved interstate from Puerto Rico or the Virgin Islands of the United States in accordance with this subpart to any destination if:
- (1) The movement is authorized by a valid certificate issued in accordance with §318.58-4. or
- (2) The movement is exempted from certificate requirements by administrative instructions in this subpart.
- (b) To a foreign destination after transiting the continental United States. Fruits and vegetables from Puerto Rico and the Virgin Islands of the United States that are otherwise prohibited movement from those territories into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with §318.58-12 of this subpart.
- (c) Segregation of certified articles. Articles authorized for movement by a certificate after treatment in accordance with §318.58-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Puerto Rico or the Virgin Islands of the United States, must, under the supervision of an inspector, be segregated and protected from infestation by any plant pest or disease.
- (d) Attachment of certificates. Except as otherwise provided for certain air cargo and containerized cargo on ships moved in accordance with §318.58-10, each box, bale, crate, or other container of regulated articles moved under a certificate shall have the certificate attached to the outside of the container: Provided, that if a certificate is issued for a shipment of more than one container or for bulk products, the certificate shall be attached to or stamped on the accompanying waybill, manifest, or bill of lading.

[54 FR 3580, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§318.58-4 Issuance of certificates or limited permits.

Under the following conditions, an inspector may issue a certificate or limited permit for the movement of regulated articles to be moved in accordance with this subpart:

- (a) Certification on basis of inspection or nature of lot involved. An inspector may issue a certificate for fruits and vegetables designated in §318.58-2(b)(1) after he has inspected them and found that they appear free from infestation and infection, or has determined without an inspection that the lot for shipment is of such a nature that there appears to be no danger of infestation or infection.
- (b) Certification on basis of treatment. Fruits and vegetables designated in §318.58-2(b) may be certified after undergoing an approved treatment contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and if the articles are handled after treatment in accordance with all conditions that the inspector requires. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1, "materials incorporated by reference." Treatments shall be applied at the expense of the shipper, owner, or person in charge of the articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised under this subpart.
- (c) An inspector may issue a limited permit for the movement of fruits and vegetables otherwise prohibited movement under this subpart, if the articles are to be moved in accordance with §318.58–12 of this subpart.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§318.58-4a Administrative tions authorizing the movement from Puerto Rico of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of the commercially-acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a

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storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozenpack, or cold-pack. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs is satisfied that the movement of all fruits and vegetables specified in §318.58-2, when frozen, will not result in the dissemination of injurious insects. Accordingly, pursuant to the authority contained in the proviso of §318.58-2, all fruits and vegetables specified therein, when frozen, are hereby removed from a prohibited status and are included in the list for which movement from Puerto Rico into or through any other State, Territory, or District is authorized in §318.58-3. Freezing is hereby prescribed as an approved treatment meeting the treatment requirements for the movement of fruits and vegetables specified in §318.58-3.1

(c) The inspector in Puerto Rico shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Puerto Rico.

(d) The movement from Puerto Rico of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in these instructions is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for move-

ment in accordance with these instructions.

[24 FR 10777, Dec. 29, 1959. Redesignated at 54 FR 3581, Jan. 25, 1989]

§318.58-5 Application for inspection.

Persons intending to move any of the products for which certification is required under §318.58-3 shall make application for inspection thereof as far as possible in advance of the probable date of shipment. The application shall show the quantity of the products which it is proposed to move, their identifying marks and numbers, their exact location, and the contemplated date of shipment. Forms on which to make application for inspection will be furnished, upon request, by the United States Department of Agriculture, Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971. Redesignated at 54 FR 3580, Jan. 25, 1980]

§318.58-6 Marking of containers.

No products for which certification is required under §318.58–3 shall be moved unless the crate, box, bale, or other container thereof is so marked with the marks and numbers given on the application that it may be identified at the port of first arrival.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§318.58-7 Products as ships' stores or in the possession of passengers and crew.

The movement of products is permitted from Puerto Rico or the Virgin Islands of the United States as ships' stores or in the possession of passengers and crew on ships or other ocean-going craft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States or aircraft moving from Puerto Rico or the Virgin Islands of the United States to Guam: Provided, That all such products shall upon arrival in Hawaii, Guam, or the continental United States be submitted for inspection and disposition as provided in

¹ Further information concerning the movement of frozen fruits and vegetables from Puerto Rico may be obtained from the Plant Protection and Quarantine Programs, Room 4, Post Office Bldg., P.O. Box 3386, San Juan, PR 00901.

§318.58–8, they must be free from infestation with injurious insects; those products not listed in §318.58–3 shall not be landed; and prohibited products retained aboard shall be subject to the safeguards provided in §352.8 of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 54 FR 3581, Jan. 25, 1989; 58 FR 7962, Feb. 11, 1993]

§318.58-8 Articles and persons subject to inspection.

Persons, means of conveyance (including ships, other ocean-going craft, and aircraft), baggage, cargo, and any other articles that are destined for movement, are moving, or have been moved from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States are subject to agricultural inspection at the port of departure, the port of arrival, and/or any other authorized port. If an inspector finds any article prohibited movement by the quarantine and regulations of this subpart, he or she, taking the least drastic action, shall order the return of the article to the place of origin or the exportation of the article, under safeguards satisfactory to him or her, or otherwise dispose of it, in whole or part, to comply with the quarantine and regulations of this subpart.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§318.58-9 Inspection of means of conveyance.

(a) Inspection of aircraft prior to departure. No person shall move any aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, District, or Territory of the United States, except Guam, unless the person moving the aircraft has contacted an inspector and offered the inspector the opportunity to inspect the aircraft prior to departure and the inspector has informed the person proposing to move the aircraft that the aircraft may depart.

(b) Inspection of aircraft moving to Guam. Any person who has moved an aircraft from Puerto Rico or the Virgin Islands of the United States to Guam shall contact an inspector and offer the inspector the opportunity to inspect

the aircraft upon the aircraft's arrival in Guam, unless the aircraft has been inspected and cleared in Puerto Rico or the Virgin Islands prior to departure in accordance with arrangements between the operator of the aircraft, the Animal and Plant Health Inspection Service, and the government of Guam.

(c) Inspection of ships upon arrival. Any person who has moved a ship or other ocean-going craft from Puerto Rico or the Virgin Islands of the United States to any other State, District, or Territory of the United States shall contact an inspector and offer the inspector the opportunity to inspect the ship or other ocean-going craft upon its arrival.

[54 FR 3581, Jan. 25, 1989]

§318.58-10 Inspection of baggage, other personal effects, and cargo.

(a) Offer for inspection by aircraft passengers. Passengers destined for movement by aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, shall offer their carry-on baggage and other personal effects for inspection at the place marked for agricultural inspections, which will be located at the airport security checkpoint or the aircraft boarding gate, at the time they pass through the checkpoint or the gate. Passengers shall offer their check-in baggage for inspection at agricultural inspection stations prior to submitting their baggage to the check-in baggage facility. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that the baggage or personal effects have been inspected and passed as required. Passengers shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a passenger's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The passenger shall state his or her name and address

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to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the passenger, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(b) Offer for inspection by aircraft crew. Aircraft crew members destined for movement by aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, shall offer their baggage and personal effects for inspection at the inspection station designated for the employing airline not less than 20 minutes prior to the scheduled departure time of the aircraft or the rescheduled departure time as posted in the public areas of the airport. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Aircraft crew members shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a crew member's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The crew member shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the crew member. the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(c) Baggage inspection for persons traveling to Guam on aircraft. No person who has moved from Puerto Rico or the Virgin Islands of the United States to Guam on an aircraft shall remove or attempt to remove any baggage or other personal effects from the area secured for customs inspections before the person has offered to an inspector, and had passed by the inspector, his or

her baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(d) Baggage accepting and loading on aircraft. No person shall accept or load any check-in aircraft baggage destined for movement from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, unless a certificate is attached to the baggage, or the baggage bears a USDA stamp, inspection sticker, or other indication applied by an inspector representing that the baggage has been offered for inspection and passed by an inspector.

(e) Offer for inspection by persons moving by ship. No person who has moved on any ship or other ocean-going craft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States shall remove or attempt to remove any baggage or other personal effects from a designated inspection area as provided in §318.58-10(h), on or off the ship or other ocean-going craft unless the person has offered to an inspector for inspection, and has passed by the inspector, the baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

- (f) Loading of certain cargoes. (1) Except as otherwise provided in paragraph (f)(2) of this section, no person shall present to any common carrier or contract carrier for movement, and no common carrier or contract carrier shall load, any cargo containing fruits, vegetables, or other articles regulated under this subpart that are distined for movement from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, unless the cargo has been offered for inspection, passed by an inspector, and bears of USDA stamp or USDA inspection sticker, or ulesss a certificate or limited permit is attached to the cargo as specified in §318.58-3(d).
- (2) Cargo designated in paragraph (f)(1) of this section may be loaded without a USDA stamp or USDA inspection sticker, and without a certificate attached to the cargo or a limited permit attached to the cargo, if the cargo is moved:
- (i) As containerized cargo on ships or other ocean-going craft or as air cargo;
- (ii) The carrier has on file documentary evidence that a valid certificate or limited permit was issued for the movement; and
- (iii) A notation of the existence of these documents is made by the carrier on the waybill, manifest, or bill of lading that accompanies the shipment.
- (3) Cargo moved in accordance with \$318.58-12 of this subpart that does not have a limited permit attached to the cargo must have a limited permit attached to the waybill, manifest, or bill of lading accompanying the shipment.
- (g) Removal of certain cargoes in Guam. No person shall remove or attempt to remove from a designated inspection area as provided in §318.58–10(h), on or off the means of conveyance, any cargo moved from Puerto Rico or the Virgin Islands of the United States to Guam containing fruits, vegetables, or other articles regulated under this subpart, unless the cargo has been inspected and passed by an inspector in Guam.

(h) Space and facilities for baggage inspection. Baggage inspection will not be performed until the person in charge or possession of the ship, other oceangoing craft, or aircraft provides space and facilities on the means of conveyance, pier or airport that are adequate, in the inspector's judgment, for the performance of inspections.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§318.58-11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains any plant pest, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo, in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see §300.1, "Materials incorporated by reference."

[54 FR 3582, Jan. 25, 1989]

§318.58-12 Transit of fruits and vegetables from Puerto Rico and the Virgin Islands of the United States into or through the continental United States.

Fruits and vegetables from Puerto Rico and the Virgin Islands of the United States that are otherwise prohibited movement from those territories into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with this section and any other applicable provisions of this subpart. Any additional restrictions on such movement that would otherwise be imposed by part 301 of this chapter and §§ 318.30 and 318.30a of this part shall not apply.

(a) Transit permit. (1) A transit permit is required for the arrival, unloading,

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and movement into or through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved into or through the continental United States from Puerto Rico or the Virgin Islands of the United States. Application for a transit permit must be made in writing.² The transit permit application must include the following information:

- (i) The specific types of fruits and vegetables to be shipped (only scientific or English names are acceptable);
- (ii) The means of conveyance to be used to transport the fruits and vegetables into or through the continental United States:
- (iii) The port of arrival in the continental United States, and the location of any subsequent stop;
- (iv) The location of, and the time needed for, any storage in the continental United States;
- (v) Any location in the continental United States where the fruits and vegetables are to be transloaded;
- (vi) The means of conveyance to be used for transporting the fruits and vegetables from the port of arrival in the continental United States to the port of export;
- (vii) The estimated time necessary to accomplish exportation, from arrival at the port of arrival in the continental United States to exit at the port of export:

(viii) The port of export; and

- (ix) The name and address of the applicant and, if the applicant's address is not within the territorial limits of the United States, the name and address in the United States of an agent whom the applicant names for acceptance of service of process.
- (2) A transit permit will be issued only if the following conditions are met:
- (i) APHIS inspectors are available at the port of arrival, port of export, and any locations at which transloading of cargo will take place, and, in the case

²Applications for transit permits should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

of air shipments, at any interim stop in the continental United States, as indicated on the application for the transit permit;

(ii) The application indicates that the proposed movement would comply with the provisions in this section applicable to the transit permit; and

(iii) During the 12 months prior to receipt of the application by APHIS, the applicant has not had a transit permit withdrawn under §318.58-16 of this subpart, unless the transit permit has been reinstated upon appeal.

- (b) Limited Permit. Fruits and vegetables shipped from Puerto Rico or the Virgin Islands of the United States into or through the continental United States under this section must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the continental United States, and at any other location in the continental United States where an air shipment is authorized to stop or where overland shipments change means of conveyance. An inspector will issue a limited permit if the following conditions are met:
- (1) The inspector determines that the specific type and quantity of the fruits and vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English names are acceptable.) The fruits and vegetables shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this section; and
- (2) The inspector establishes that the shipment of fruits and vegetables has been prepared in compliance with the provisions of this section.
- (c) Marking requirements. Each of the smallest units, including each of the smallest bags, crates, or cartons, containing fruits and vegetables for transit into or through the continental United States under this section must be conspicuously marked, prior to the locking and sealing of the container in Puerto Rico or the Virgin Islands of the United States, with a printed label that includes, a description of the specific type and quantity of the fruits and vegetables (only scientific or

English names are acceptable), the transit permit number under which the fruits and vegetables are to be shipped, and, in English, the fact that they were grown in Puerto Rico or the Virgin Islands of the United States and the statement "Distribution in the United States is Prohibited."

(d) Handling of fruits and vegetables. Fruits and vegetables shipped into or through the continental United States from Puerto Rico or the Virgin Islands of the United States in accordance with this section may not be commingled in the same sealed container with articles that are intended for entry and distribution in the continental United States. The fruits and vegetables must be kept in sealed containers from the time the limited permit required by paragraph (b) of this section is issued, until the fruits and vegetables exit the continental United States, except as otherwise provided in the regulations in this section. Transloading must be carried out in accordance with the requirements of paragraphs (a), (h), and (i) of this section.

(e) Area of movement. The port of arrival, the port of export, ports for air stops, and overland movement within the continental United States of fruits and vegetables shipped under this section is limited to a corridor that includes all States of the continental United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into the designated corridor by the shortest route. Movement through the continental United States must begin and end at locations staffed by APHIS inspectors.³

(f) Movement of fruits and vegetables. Transportation through the continental United States shall be by the most direct route to the final destination of the shipment in the country to which it is exported, as determined by APHIS based on commercial shipping routes and timetables and set forth in the transit permit. No change in the quantity of the original shipment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the shipment from the itinerary described in the transit permit and limited permit is allowed unless authorized by an APHIS inspector upon determination by the inspector that the change will not significantly increase the risk of plant pests or diseases in the United States, and unless each port to which the shipment is diverted is staffed by APHIS inspec-

(g) Notification in case of emergency. In the case of an emergency such as an accident, a mechanical breakdown of the means of conveyance, or an unavoidable deviation from the prescribed route, the person in charge of the means of conveyance must, as soon as practicable, notify the APHIS office at the port where the cargo arrived in the continental United States.

(h) Shipments by sea. Except as authorized by this paragraph, shipments arriving in the continental United States by sea from Puerto Rico or the Virgin Islands of the United States may be transloaded once from a ship to another ship or, alternatively, once to a truck or railcar at the port of arrival and once from a truck or railcar to a ship at the port of export, and must remain in the original sealed container, under extenuating cumstances and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an inspector upon determination by the inspector that the transloading

³For a list of ports staffed by APHIS inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(i) Shipments by air. (1) Shipments arriving in the continental United States by air from Puerto Rico or the Virgin Islands of the United States may be transloaded only once in the continental United States. Transloading of air shipments must be carried out in the presence of an APHIS inspector. Shipments arriving by air that are transloaded may be transloaded either into another aircraft or into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second air stop within the designated corridor, as authorized in the transit permit and as provided in paragraph (i)(2) of this section. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air shipments will be authorized only if the following conditions are met:

- (i) The transloading is done into sealable containers;
- (ii) The transloading is carried out within the secure area of the airport—*i.e.*, that area of the airport that is open only to personnel authorized by the airport security authorities;
- (iii) The area used for any storage is within the secure area of the airport; and
- (iv) APHIS inspectors are available to provide the supervision required by paragraph (i)(1) of this section.
- (2) Except as authorized by paragraph (f) of this section, shipments that continue by air from the port of arrival in the continental United States may be authorized by APHIS for only one addi-

tional stop in the continental United States, provided the second stop is within the designated corridor set forth in paragraph (e) of this section and is staffed by APHIS inspectors. As an alternative to transloading a shipment arriving in the United States into another aircraft, shipments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second authorized air stop within the designated corridor. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

- (j) Duration and location of storage. Any storage in the continental United States of fruits and vegetables shipped under this section must be for a duration and in a location authorized in the transit permit required by paragraph (a) of this section. Areas where such fruits and vegetables are stored must be either locked or guarded at all times the fruits and vegetables are present. Cargo shipped under this section must be kept in a sealed container while stored in the continental United States.
- (k) Temperature requirement. Except for time spent on aircraft and except during storage and transloading of air shipments, the temperature in the sealed containers containing fruits and vegetables moved under this section must be 60° F or lower from the time the fruits and vegetables leave Puerto Rico or the Virgin Islands of the United States until they exit the continental United States.
- (I) Prohibited materials. (1) The person in charge of or in possession of a sealed container used for movement into or through the continental United States under this section must ensure that the

sealed container is carrying only those fruits and vegetables authorized by the transit permit required under paragraph (a) of this section; and

(2) The person in charge of or in possession of any means of conveyance or container returned to the United States without being reloaded after being used to export fruits and vegetables from the United States under this section must ensure that the means of conveyance or container is free of materials prohibited importation into the United States under this chapter.

(m) Authorization by APHIS of the movement of fruits and vegetables into or through the continental United States under this section does not imply that the fruits and vegetables are enterable into the destination country. Shipments returned to the United States from the destination country shall be subject to all applicable regulations, including "Subpart—Fruits and Vegetables" of part 319 of this chapter, and part 352 of this chapter.

(n) Any restrictions and requirements with respect to the arrival, temporary stay, unloading, transloading, transiting, exportation, or other movement or possession in the United States of any fruits or vegetables under this section shall apply to any person who, respectively, brings into, maintains, unloads, transloads, transports, exports, or otherwise moves or possesses in the United States such fruits or vegetables, whether or not that person is the one who was required to have a transit permit or limited permit for the fruits or vegetables or is a subsequent custodian of the fruits or vegetables. Failure to comply with all applicable restrictions and requirements under this section by such a person shall be deemed to be a violation of this section.

(Approved by the Office of Management and Budget under control number 0579–0088)

[58 FR 7962, Feb. 11, 1993; 58 FR 40190, July 27, 1993, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67609, Dec. 30, 1994]

§318.58-13 Movements by the Department of Agriculture.

Notwithstanding any other restrictions of this subpart, articles subject to the requirements of the regulations

in this subpart may be moved if they are moved:

- (a) By the United States Department of Agriculture for experimental or scientific purposes;
- (b) Pursuant to a Departmental permit issued for the article and kept on file at the port of departure;
- (c) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plant pests and diseases; and,
- (d) With a Departmental tag or label bearing the number of the Departmental permit issued for the article securely attached to the outside of the container of the article or securely attached to the article itself if not in container.

[54 FR 3582, Jan. 25, 1989]

§318.58-14 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the U.S. Post Office Department, parcel post packages placed in the mails in Puerto Rico or the Virgin Islands of the United States, to determine whether such packages contain products the movement of which is not authorized under this subpart, to examine products so found for insect infestation, and to notify the postmaster in writing of any violation of this subpart in connection therewith.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963. Redesignated at 54 FR 3582, Jan. 25, 1989]

§318.58-15 Costs and charges.

Plant Protection and Quarantine shall furnish the services of the inspector during regularly assigned hours of duty at the usual places of duty without cost to the person requesting the services. Plant Protection and Quarantine will not assume responsibility for any costs or charges, other than those indicated in this paragraph, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation incidental to the movement of regulated articles under this subpart.

[54 FR 3583, Jan. 25, 1989]

§318.58-16 Cancellation of certificates, transit permits, or limited permits.

Any certificate, transit permit, or limited permit that has been issued or authorized under this subpart may be withdrawn by an inspector orally or in writing if he or she determines that the holder of the certificate, transit permit, or limited permit has not complied with all conditions under the regulations for the use of the document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate, transit permit, or limited permit has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate, transit permit, or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

[54 FR 3583, Jan. 25, 1989, as amended at 58 FR 7964, Feb. 11, 1993]

Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts

§318.60 Notice of quarantine.

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States, by means of sand, soil, or earth about the roots of plants, of immature stages of certain dangerous insects, including Phyllophaga spp. (White grubs), Phytalus sp., and Adoretus sp., and of several species of termites or white ants, new to and not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

- (b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and having given public hearing as required thereunder, the Secretary of Agriculture hereby quarantines Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of said dangerous insects.
- (c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: Provided, That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: Provided further, That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: And provided further, That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been (1) freed from sand, soil, and earth, (2) subsequently potted and established in sphagnum moss or other packing material approved under §319.37–16 that had been stored under shelter and had not been previously used for growing or packing plants, (3) grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to

prevent infestation through contact with sand, soil, or earth, and (4) certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c) (1), (2), and (3) of this section.

(d) As used in this section, the term *State, Territory, or District of the United States* means "Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

Subpart—Guam

QUARANTINE

§318.82 Notice of quarantine.

(a) Pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and sections 103 and 106 of the Federal Plant Pest Act (7 U.S.C. 150bb, 150ee), and after public hearing, it has been determined that it is necessary to quarantine Guam to prevent the spread to other parts of the United States of dangerous insect infestations and plant diseases, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, inothers: cluding among Icerva aegyptiaca (Dougl.), Xanthomonas citri (Hasse) Dowson, Aleurocanthus spiniferus (Q.), Phyllocnistis citrella (Stainton), Coccus viridis (Green), Anomala sulcatula Burm., Furcaspis oceanica Ldgr., Stephanoderes hampei (Ferr.), Pectinophora scutigera (Holdaway), Dacus dorsalis Hend., Dacus cucurbitae (Coq.), Marcua testulalis (Geyer), Lampides boeticus (L.), Prays endocarpa Meyr., Prodenia litura (F.), Euscepes postfasciatus (Fairm.), Earias fabia (Stoll), Elsinoe batatas (Saw.) Viegas and Jenkins, dioscoreae-alatae Rac., Uredo Zimm., Cercospora batatae Phyllosticta Coniothyrium sp., colocasiophila Weed., Xanthomonas vasculorum (Cobb) Dowson, Rhabdoscelus obscurus (Boisd.), Neomaskellia bergii (Sign.), Pyrausta nubilalis (Hbn.), Physoderma zeaemaydis Shaw, Leptocorisa acuta (Thunb.), Adoretus sinicus Burm., and Holotrichia mindanaona Brenske, as well as other plant pests, and Guam is hereby quarantined because of such insect infestations and diseases and other plant pests, and regulations are prescribed in this subpart governing the movement of carriers of these pests.

(b) No plants or parts thereof capable of propagation; seeds; fruits or vegetables; cotton or cotton covers; sugarcane or parts or by-products thereof; cereals; cut flowers; or packing materials; as such articles are defined in regulations supplemental hereto, shall be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person from Guam into or through any other State, Territory, or District of the United States, in any manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: Provided. That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement from Guam of the articles designated herein, make it safe to modify, by making less stringent, the restrictions contained in any regulations in this subpart or in any other subpart in this chapter made applicable thereto by this subpart, he shall publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent with respect to such movement, whereupon such modification shall become effective; or he may, when the public interests will permit in specific cases, upon notification to the consignor and to the consignee, authorize the interstate movement from Guam of the articles to which such regulations apply, under conditions that are less stringent than those contained in the regulations.

(c) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

REGULATIONS

§ 318.82-1 Definitions.

Words used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case § 318.82-2

may demand. For the purposes of this subpart, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Plants.* Trees, shrubs, vines, cuttings, grafts, scions, buds, herbaceous plants, bulbs, roots, and other plants and plant parts intended for propagation.

(b) Seeds. The mature ovular bodies produced by flowering plants, containing embryos capable of developing into

new plants by germination.

(c) Fresh fruits and vegetables. The edible, more or less succulent, portions of food plants in the raw or unprocessed state.

- (d) Cotton and cotton covers. Any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and secondhand burlap and other fabrics, shredded or otherwise, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops.
- (e) Sugarcane or parts or by-products thereof. Stems of sugarcane (Saccharum spp.), or cuttings or parts thereof, sugarcane leaves, or bagasse or other parts of sugarcane plants, except seeds, not sufficiently processed to remove plant pest danger.
- (f) Cereals. Seed and other plant parts of all members of the grass family (Gramineae) which yield grain or seed suitable for food, including, but not limited to, wheat, rice, corn and related plants. This definition shall include straw, hulls, chaff and products of the milling process (but excluding flour) of such grains and seeds as well as stalks and all other parts of broomcorn.
- (g) Cut flower. The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state.

(h) Packing materials. Any plant or plant product, or soil as defined in §330.100(t) of this chapter, or other substance associated with or accompanying any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or any other auxiliary purpose. The word "packing," as used in the expression "packing materials," shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.

(i) Administrative instructions. Published documents relating to the enforcement of the regulations in this subpart, issued under the authority of such regulations by the Deputy Administrator of the Plant Protection and

Quarantine Programs.

(j) State, Territory, or District of the United States. Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States (including Alaska).

(k) *United States.* The States, the District of Columbia, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) Oceania. The islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and the Malay Archipelago.

(m) Far East. The countries of East and Southeast Asia, including Japan, Korea, Taiwan, the northeastern provinces of Manchuria, the Philippines, Indo-China, and India.

§318.82-2 Movement of regulated articles.

(a) Plants, plant products, and other articles designated in §318.82 may be moved from Guam into or through any other State, Territory, or District of the United States only if, in the case of articles other than soil, they meet the strictest plant quarantine requirements for similar articles offered for entry into such State, Territory, or District from Oceania or the Far East under part 319 or part 321 of this chapter, except requirements for permits, foreign inspection certificates, notices of arrival, and notices of shipment from port of arrival, and in the case of soil if it meets the requirements of §330.300 of this chapter. If such similar articles cannot be imported into the particular State, Territory, or District from Oceania or the Far East under either part 319 or part 321 of this chapter, the interstate movement of the articles from Guam into or through such State, Territory or District shall be similarly prohibited. Plants, plant products, and other articles moved from Guam into or through any other State, Territory or District of the United States shall be subject to inspection at the port of first arrival in another part of the United States to determine whether they are free of plant pests and otherwise meet the requirements applicable to them under this subpart, and shall be subject to release, in accordance with §330.105(a) of this chapter as if they were foreign arrivals. Such articles shall be released only if they meet all applicable requirements under this subpart.

- (b) A release may be issued orally by the inspector when inspection of small quantities of regulated articles is involved except that a release issued in specific cases pursuant to the proviso in §318.82 shall be in writing.
- (c) The appropriate provisions of part 352 of this chapter are hereby made applicable to the safeguarding of regulated articles from Guam temporarily in parts of the United States other than Guam, when landing therein is not intended or landing has been refused in accordance with this subpart. The movement of plant pests, means of conveyance, plants, plant products, and other products and articles from Guam into or through any other State, Territory, or District is also regulated by part 330 of this chapter.

§ 318.82-3 Costs.

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Foreign Cotton and Covers

QUARANTINE

319.8 Notice of quarantine.

319.8a Administrative instructions relating to the entry of cotton and covers into Guam.

REGULATIONS; GENERAL

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319.8-8 Lint, linters, and waste.

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319.8-11 From approved areas of Mexico.

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MISCELLANEOUS PROVISIONS

319.8-16 Importation into United States of cotton and covers exported therefrom.

319.8–17 Importation for exportation, and importation for transportation and exportation; storage.

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319.8-20 Importations by the Department of Agriculture.

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319.8-22 Ports of entry or export.

319.8–23 Treatment.

319.8-24 Collection and disposal of waste.

319.8-25 Costs and charges.

319.8-26 Material refused entry.

Subpart—Sugarcane

319.15 Notice of quarantine.

319.15a Administrative instructions and interpretation relating to entry into Guam